LEGISLATIVE COUNCIL

Wednesday 5 July 2000

The PRESIDENT (Hon. J.C. Irwin) took the chair at 2.15 p.m. and read prayers.

WATER RESOURCES (WATER ALLOCATIONS) AMENDMENT BILL

The Hon. R.I. LUCAS (Treasurer): By leave, I move:

That the sitting of the Council be not suspended during the continuation of the conference.

Motion carried.

JOINT COMMITTEE ON TRANSPORT SAFETY

The Hon. A.J. REDFORD: By leave, I move:

That the members of this Council appointed to the committee have power to act on this committee during the recess.

Motion carried.

LEGISLATIVE REVIEW COMMITTEE

The Hon. A.J. REDFORD: I lay upon the table the 22nd report of the committee 1999-2000.

ADELAIDE PARKLANDS

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): On behalf of the Hon. Dorothy Kotz, Minister for Local Government, I seek leave to table a ministerial statement on the subject of the Adelaide parklands.

Leave granted.

QUESTION TIME

TRANSADELAIDE EMPLOYEES

The Hon. CAROLYN PICKLES (Leader of the Opposition): I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question on the subject of TransAdelaide.

Leave granted.

The Hon. CAROLYN PICKLES: During the estimates committees the minister was asked a question about the number of redeployees budgeted for by the government when calculating the whole-of-government costs. In response, the minister said:

The whole-of-government savings are calculated at $7 million per year for each of the 10 years, and that is on the basis that on 30 June there would be 226 full-time equivalent redeployees from the business. . . I understand that, at this stage, we are on track for having 229 full-time equivalents as at 30 June 2000.

The minister's use of the term 'full-time equivalents' underestimates and misrepresents the numbers of individual redeployees, given that over 22 per cent of TransAdelaide drivers were working part time. Furthermore, the opposition also discovered that eight people have gone and 28 were eligible for either a TVSP or redeployment in the corporate area of TransAdelaide. My questions to the minister are:

1. How many individuals are now deemed to be redeployees?

2. Were the corporate redeployees, which number around 30, included in the 226 figure used by the minister during estimates?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I am pleased to report, although I suspect that it will not give the honourable member much pleasure, that the government and TransAdelaide have more than realised their whole-of-government target at 30 June. The number of redeployees is 224.17. I have asked about the .17 and what that reflects, but I am told that that is an accurate reflection of the number of full-time redeployees within TransAdelaide.

As the honourable member correctly noted, the target at 30 June was 226 full-time equivalent employees, which was the consistent target that I had indicated from 27 January, when the outcome of the tenders was announced. I think that the honourable member would wish to acknowledge that many people have made major adjustments in their lives since the announcement of that tender outcome.

We have another important day in terms of target figures, and that is 30 October, when the averaging pay arrangements expire. We would anticipate that many of the TransAdelaide redeployees who were working part time with the TransAdelaide business will then leave the public sector because the averaging arrangements will expire on 30 October. So, at 30 June it was 224.17 full-time equivalent employees, and that is the day on which the enhanced targeted separation package expired.

I will get the figures for the honourable member in terms of the number of overall employees, but the key figure is the full time equivalents. It was at that figure or base that the state government and the taxpayers gained average savings of at least $7 million a year in respect of the operating costs for the bus business. Any further redeployees below the 226 full time equivalents is a further gain for those employees in terms of finding a rewarding future and also, in terms of the taxpayer, in further gains in operating costs for the bus business in this state. In the meantime, I highlight that 94 per cent of all staff engaged by the new bus operators are former TransAdelaide employees, and 97 per cent of all bus drivers are former TransAdelaide employees; so almost the full compliment of drivers and staff taken up by the new bus operators are former TransAdelaide employees.

I would highlight, too, that 53 of the bus redeployees have now taken up employment in a different part of TransAdelaide's business—in the rail business—and 44 of those employees are now working as PSAs or passenger service assistants, and they are doing an outstanding job in terms of the ticket checks at the barriers of the Adelaide Railway Station and as part of the roving teams. Having spoken to some of those officers again today, the success of their work after 7 p.m. is being exceedingly well received by our train passengers. I also indicate to the honourable member that the figures I have given embrace all TransAdelaide bus business and not just the drivers, because it includes people who were working in other parts of the business, including the corporate sector.

ELECTRICITY, PRIVATISATION

The Hon. P. HOLLOWAY: My question is directed to the Treasurer. Given that the government has refused to answer many opposition questions asked at the 1999 estimates committees because of the alleged cost of collating that information (for example, the Minister for Administrative

Services has claimed that it would cost precisely $73 117 to answer one question on staff matters), will the Treasurer say how much it has cost in departmental officer time and for legal advice to correct and recheck the mistake-ridden electricity pricing order which was found to be in error in March and not finally replaced until last week?

The Hon. R.I. LUCAS (Treasurer): I am not in a position to be able to provide that information.

The Hon. P. HOLLOWAY: I have a supplementary question. Was any legal advice in relation to errors in the electricity pricing order requested from consultants or outside legal firms, that is, outside the government?

The Hon. R.I. LUCAS: I will take the question on notice and bring back a reply.

HEALTH, PATIENTS' RECORDS

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning, representing the Minister for Human Services, a question on patients' health records.

Leave granted.

The Hon. CARMEL ZOLLO: A recent forum in New South Wales, reported in the *Australian*, raised the inevitability of patients owning their personal medical information. Mr Mick Reid, Director of the New South Wales Health Department, is reported as saying:

> There are still strong clinical views by many in our medical profession that their capacity to accurately and comprehensively record information is to some degree compromised by the access to that information by other people or, alternatively, by the consumers themselves.

The manner in which the information is to be exchanged is not yet clear, but Mr Reid believes the goal is to have an electronic health record for every person in New South Wales by 2010. He believes that the electronic health records could be based on a number of building blocks, including statewide implementation of hospital patient administration systems, clinical information support systems, and the resolution of issues on data and privacy.

I understand that state and federal governments are working on plans for an unique identifier and that, once the unique identifier is available, the electronic health record will follow. It is expected that the identifier is likely to be an evolution of the Medicare card. Mr Reid talked of the importance of getting our own state-based building blocks talking to each other to enable the transference of data. I have contacted New South Wales Health through its web site to try to obtain further details of the forum and, in particular, a copy of Mr Reid's paper.

Given the proposed federal privacy legislation, I ask the minister whether South Australia is working on a unique identifier for electronic patient records and, if this is in conjunction with other health jurisdictions, what is the accessibility of such records by patients? If it is, what is the time frame for the implementation of such a scheme?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I will refer the question to the minister and bring back a reply.

SMOKE-FREE DINING

In reply to **Hon. CARMEL ZOLLO** (25 May).

The Hon. DIANA LAIDLAW: The Minister for Human Services has provided the following information:

1. As at 12 May 2000:
   277 licensed premises; and
   44 unlicensed premises.
2. 204 exemptions for licensed premises have been approved.
   40 exemptions for unlicensed premises have been approved.
3. No expiations or other penalties have been issued to date. A process of consultation and education of premises owners and proprietors has been followed to allow and support implementation of the exemption conditions in line with the requirements of Section 47 of the Tobacco Products Regulation Act 1997.
4. Investigation of complaints from the general public on smoking in restaurants and dining areas is the current method of ensuring compliance with the Act. Each complaint is investigated and assessed and warnings have been issued for non-compliance. No further action has been required following the warnings.

PHENTERMINE

In reply to **Hon. T. CROTHERS** (2 May).

The Hon. DIANA LAIDLAW: The Minister for Human Services has provided the following information:

By way of background, phentermine is a prescription drug used in the management of obesity as a short term adjunct to diet for weight reduction. It is not subsidised on the pharmaceutical benefits scheme.

Adverse drug reactions are monitored in Australia by the Adverse Drug Reactions Advisory Committee (ADRAC). This committee reports to the Therapeutic Goods Administration (TGA). In reaching a decision on the continued registration of a product in this country, the TGA takes into account any problems identified overseas, as well as in Australia.

The honourable member refers to the withdrawal of phentermine in Britain. In August 1999 the committee for Proprietary Medicinal Products of the European Agency for the Evaluation of Medicinal Products resolved to withdraw marketing authorisations for a number of anorectic agents, including phentermine. The Minister for Human Services has been advised that this recommendation was based on the lack of therapeutic efficacy, leading to an unfavourable benefit/risk balance.

The Medicines Control Agency in the UK issued a statement in April 2000 to this effect, stating there were no new safety concerns, but that the risks outweigh the benefits.

The Minister for Human Services has also written to the commonwealth minister under whose jurisdiction the TGA comes, drawing his attention to the concerns raised by the honourable member, and asking that he refer them to the TGA.

DRIVER TRAINING

In reply to **Hon. T.G. CAMERON** (23 May).

The Hon. DIANA LAIDLAW: In South Australia, the competency-based training scheme of driver licensing requires supervised learning and successive demonstration of competency accumulated in a wide range of specific tasks. These tasks cover the majority of driving experiences necessary for safe and competent driving. It does not require minimum hours of practice as is the case in some other jurisdictions. I believe the basis of the competency-based scheme is the more thorough foundation for novice driver training schemes. It is also relevant that over 75 per cent of novice car drivers now choose competency-based training for gaining their provisional driver's licence. The scheme is continually monitored by Transport SA and driver training industry organisations to ensure its content is relevant to the requirements of safe and competent driving.

While the newly revised competency-based training log book clearly lays down all the learning outcomes and task requirements required to achieve competency in each task, this information can also assist learner drivers who elect to undertake the single practical vehicle on-road test (VORT) option. However, the assessment process for a VORT does not have the full involvement or completeness that is achieved through the competency-based training assessment process, as any single on-road practical driving test is only a 'snapshot' of a new driver's ability to drive under limited accessible driving conditions.

I tabled the Joint Committee on Transport Safety Report on Driver Training and Testing Inquiry on 28 October 1999. The joint committee thoroughly examined the provision of driver training and testing in this state. Its recommendations regarding refining the competency-based training and VORT approaches are being actioned by Transport SA. In addition, research and interstate developments in driver licensing approaches are regularly monitored by Transport SA. If this information suggests that a new or modified approach in

this state is necessary, I will ensure a report is prepared on these developments for Parliament's consideration.

ELECTRICITY INTERCONNECTION

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Treasurer and Leader of the Council a question about electricity interconnection.

Leave granted.

The Hon. L.H. DAVIS: I read with interest in the June 2000 edition of *Electricity Supply*, the electricity industry magazine in Australia, an article about—

The Hon. M.J. Elliott: Good pictures?

The Hon. L.H. DAVIS: I think you will enjoy it.

The PRESIDENT: The Hon. Mr Davis will return to his explanation.

The Hon. L.H. DAVIS: This article concerned the first non-regulated transmission interconnection between the high voltage electricity grids of Queensland and New South Wales. The article states that the chief advantage of this interconnection is that it runs underground, thereby avoiding public antipathy to overhead lines that plague many new transmission projects. I know that will be of interest to the Democrats, who supported underground transmission. The interconnection is a 50-50 partnership between New South Wales distribution company NorthPower and Hydro Quebec subsidiary HQI Australia Limited Partnership. It runs from Mullumbimby to Teranora in northern New South Wales. The project will cost in the vicinity of $120 million.

The Hon. Nick Xenophon might recognise the name TransEnergie: the Australia chief executive of HQI Australia and TransEnergie Australia, Dr Tony Cook, was quoted in the article as saying that this is the company's first foray in this country. He further says:

> We came here to get involved in high technology transmission, and DirectLink is our first completed project.

Cook then talks about the MurrayLink interconnection between Red Cliffs in Victoria and Berri in South Australia, which will be a 200 megawatt underground DC link over 180 kilometres. Finally, to return to the interconnection between Queensland and New South Wales, the chief executive of NorthPower, Tom Parkinson, is quoted as describing the project as a milestone for the national electricity market (NEM). Mr Parkinson says:

> It's the first entrepreneurial interconnection in the NEM, the first private investment in an interconnection and the first commercial use of DC Light technology in Australia. Interconnection between the states is fundamental to the concept of a national electricity market, and DirectLink brings that concept to reality.

My questions are:

1. Will the Treasurer advise the Council of the progress being made with the MurrayLink interconnector between Red Cliffs in Victoria and Berri in South Australia?

2. Does the Treasurer have any comment on the article I have just quoted?

The Hon. R.I. LUCAS (Treasurer): Some days ago I, too, saw the article in *Electricity Supply*; it was an interesting read. I am in a position to indicate only that the information that Dr Tony Cook, who is the CEO of TransEnergie, has been passing on to the reform and sales unit people is very similar to the information provided in that magazine, that is, he still believes that they are on track to begin operating in the first six months of next year. I think he nominated June next year, which has been their position for the past three months or so.

The ministers met recently in the Riverland when it was made clear that there is a very strong groundswell of opposition amongst Riverland residents to the project being supported by the Australian Labor Party and the Hon. Mr Xenophon under the Transgrid Riverlink proposal. Local residents are saying to the government, 'Why would members of parliament support the New South Wales Labor government proposal if it is above-ground, intrusive and if it is opposed strongly by many local landowners and other Riverland constituents?'

The Hon. L.H. Davis: It has been called the PriceLine.

The Hon. R.I. LUCAS: That is a nice line; I have not heard that one. When asked that question, I was at a loss to explain, and I indicated that perhaps the only people who could answer that question would be the Hon. Mr Xenophon, the Hon. Mr Holloway and Mr Foley, all of whom support this New South Wales Labor Party Transgrid proposal.

As I have indicated before, there is no doubting that in some cases communities will have to accept the intrusive nature of above-ground transmission interconnection. The people who are currently campaigning against the Basslink interconnection are a perfect case in point in that there is no alternative private sector financed project which has been put in competition with Basslink which will provide the same benefits but without the above-ground, intrusive nature of the transmission interconnection. The great potential joy of the Riverland is that they have the option. They do not have to choose the New South Wales Labor government proposal: they can enjoy interconnection between the eastern states and South Australia through an underground, unsubsidised interconnector called MurrayLink.

As I said, from the government's viewpoint, I told Riverland residents at our recent meetings that the government will do all it can to continue to support the environmentally friendly, non-intrusive, unsubsidised by South Australian electricity consumers, fast-track, clean, green and generally much to be preferred option by the private sector in the MurrayLink project; and I also said that it would be up to the Hon. Mr Xenophon and the Labor Party to justify why they would not support the Riverland residents in their ongoing battles against the excesses of the New South Wales Labor government and its current Riverlink project.

The Hon. NICK XENOPHON: I have a supplementary question. Will the government provide details of any economic modelling on the comparative impact of a regulated versus unregulated interconnector between New South Wales and South Australia in respect of the difference it would have on electricity prices for South Australian consumers?

The Hon. R.I. LUCAS: I will have to take that question on notice, but I must say that I have spent the past two years giving the Hon. Mr Xenophon so much information that ends up with Danny Price inevitably and, sadly, Danny Price seems to have some svengali like influence over the Hon. Mr Xenophon: he looks into the Hon. Mr Xenophon's eyes and, whatever evidence is provided to the Hon. Mr Xenophon, he ends up agreeing with Mr Price and the New South Wales Labor government.

I will take the honourable member's question on notice and see whether we need to add to the considerable cost of our consultancies. Indeed, a significant cost of our consultants I suspect so far has been to provide information to the Hon. Mr Xenophon, the Hon. Sandra Kanck's thousand hours of research, and trying to convince the Australian Labor Party

and responding to the many questions that have been asked over two years or so.

We continue to fight the good fight and do what we can to convince members of parliament in this chamber. As I said, I will take the question on notice and see whether it is possible without incurring additional taxpayers' expense because I suspect that, in the end, it will not be productive expenditure of taxpayers' dollars.

The Hon. NICK XENOPHON: I have another supplementary question. Has the government undertaken economic modelling on the impact of electricity prices for South Australian consumers comparing a regulated versus an unregulated interconnector between New South Wales and South Australia? Has it undertaken such analysis?

The Hon. R.I. LUCAS: We have undertaken a lot of economic analysis in relation to the economics of both regulated and unregulated, or, as I prefer to call them, subsidised or unsubsidised interconnectors. We had to do so to justify the eminent good sense in supporting the government's position of an unsubsidised interconnector. As I said, I will take the honourable member's question on notice to see whether or not I can provide any further information to the honourable member for his further discussions with Mr Price.

OLYMPICS, TRANSPORT

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Transport a question about the use of Adelaide's disability access buses during the Olympic and Paralympic Games.

Leave granted.

The Hon. SANDRA KANCK: For seven years most of Australia has known that the Olympic and Paralympic Games will be staged in Sydney in September and October this year but, despite this, it seems that the Olympic Road Transport Authority (ORTA) has only just realised that it will require a substantially greater number of buses than it currently has in Sydney to transport the many visitors and athletes who use wheelchairs or require accessible transport. The plan is to second the required buses from around the nation for a nine week period. Already, the Northern Territory has said that it will not be giving up its buses to ORTA.

South Australia has a limited number of access buses now but, if they go east for more than two months, those concerned say there really will be a disability transport crisis. If the government agrees to the buses going east, a couple of issues will need to be urgently addressed. Should the South Australian Government allow our buses to be seconded, the Disability Discrimination Act will have been contravened and one assumes that the state government will then apply for an exemption to the act. South Australia already has five legislative exemptions to the Disability Discrimination Act, which hardly makes us the state for human rights for people with a disability. I assume that the Minister for Transport will then arrange for extra access cab vouchers to be provided to allow those in wheelchairs to get to work, go shopping and so on. However, we already have an access cab system that is found wanting. My questions are:

1. Has the minister agreed to allow our buses to be used by ORTA?

2. If so, will she ensure adequate access cab vouchers are provided to people who need them and that adequate numbers of access cabs are available during this time?

3. Will the New South Wales government pay for the extra access cab vouchers in South Australia?

4. Who will foot the bill for the transfer and any repainting of these buses for their use in Sydney and the transfer and any further repainting on their return to Adelaide?

5. Is the government prepared to offer transport in the buses to and from Sydney as a means of recouping some of the costs involved?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I assume that the inquiry has been directed to the PTB, the operators or Transport SA. I have not directly received the inquiry, to my knowledge. I will investigate the matter and bring back a prompt reply. If the circumstances are as the honourable member has outlined, certainly our bus fleet would be attractive. We have the highest proportion of any bus fleet in Australia with fully accessible buses and we are adding to that number by one new bus per week. I suggest that the remainder of the honourable member's question is speculation in terms of seeking exemptions under the act, cab vouchers and the like, and I would not wish to fuel that speculation until I receive some advice which, as I mentioned a moment ago, I will seek promptly.

ROADS, AUDIO TACTILE MARKING

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question about audio tactile road marking.

Leave granted.

The Hon. J.S.L. DAWKINS: Members of the Council may recall that a new form of audio tactile road marking has been trialled on the Dukes Highway near Keith. No doubt some members have driven along that road. I am sure that the Hon. Terry Roberts has run his tyres over this audio tactile marking. I understand that the trial has now been completed. Will the minister indicate whether the trial has proven successful in terms of road safety? If so, will these new markings be installed on other highways in South Australia in the near future? As someone who regularly travels on the Sturt Highway between Gawler and the Riverland, I would be particularly interested to know whether this major interstate route will have this new line marking installed on it.

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I thank the honourable member for his question; it is very important in terms of road safety across South Australia. I know that the honourable member was a member of the Environment, Resources and Development Committee which looked at rural road safety issues. This system of audio tactile line marking was championed by the Tatiara Road Safety Group as being effective for motorists who weave off the road in that it alerts them to that fact and they can quickly correct their position and move back into the correct lane. These markings have been highly effective on interstate freeways and toll roads over a number of years, but they have been trialled in South Australia only recently and, as I say, the first location was in the South-East.

From time to time this matter has been raised by the Hon. Ron Roberts. I think that anybody who drives in the country will take this matter seriously. This current financial year $300 000 will be spent on three national highways in South Australia—National Highway 1 between Port Augusta and Crystal Brook, the Dukes Highway and the Sturt Highway, on which the honourable member travels regularly—to provide 70 kilometres of audio tactile marking. Essentially,

it will be 140 kilometres in length, because it will be on both sides of the road.

Overall, this will be a three year program. I advise that $890 000 will be spent applying these tactile markers to 635 kilometres of national highways on both sides of the road. I hope that the honourable member and the people he represents, particularly those in the Riverland, will see this as an important road safety measure to keep people alive and alert, especially in terms of fatigue.

ABORIGINAL PRISONERS

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Police, Correctional Services and Emergency Services, a question about rehabilitation and support programs.

Leave granted.

The Hon. T.G. ROBERTS: Currently, a number of support programs are running in the correctional services area that are doing a lot of good. They have been successful programs by any measure and the assessments that are being made on some of those newly introduced programs for results are still being considered. Today I would like to ask a question about the Aboriginal prisoners and offenders support services program. I understand from information given to me by regional people working in the field that this program is working and is assisting Aboriginal offenders to get their lives in order in pre-release programs and, on post-release, contact is maintained and support is given, so that recidivism rates can start to drop and confidence can be built up in some of the offenders so that they can become normal members of society. Information has been given to me that it is possible that some cuts to the programs are being considered. I will not put it any higher than that. It would be a sorry plight if the information given to me is correct. In the light of that, I ask the following questions:

1. Will the government be maintaining the Aboriginal prisoners support programs within our regional prisons?

2. With the success of these programs, is it the government's anticipated position of expanding the service to provide an ongoing service to Aboriginal prisoners and their families?

The Hon. K.T. GRIFFIN (Attorney-General): I will refer those questions to my colleague in another place and bring back a reply.

SOUTH AUSTRALIAN SOCCER FEDERATION

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Treasurer a question about the moneys owed to the state government by the South Australian Soccer Federation.

Leave granted.

The Hon. J.F. STEFANI: I refer to the funding deed signed by the South Australian Government and the South Australian Soccer Federation on 14 October 1996 and, in particular, to clause 56, entitled 'Statement of Amount Payable'. The clause stipulates that a statement in writing signed by a duly authorised delegate, agent or employee of the Treasurer or the minister, as the case may be, of any moneys due or owing pursuant to this deed at the date mentioned in such statement shall be, in the absence of any manifest error, conclusive evidence of the amount stated to be due, owing or payable. I refer to an article in the weekly Messenger dated 26 April 2000 in which the Manager of the South Australian Soccer Federation, Mr Tony Farrugia, said, 'The government has never said to us, "Come and pay us".' My questions are:

1. Has the Treasurer or the minister issued a statement to the South Australian Soccer Federation in accordance with clause 56 of the funding deed? If so, what was the date of such statement?

2. What was the stated amount due, owing or payable by the South Australian Soccer Federation to the state government at that date?

The Hon. R.I. LUCAS (Treasurer): I am happy to take advice on that question, but if I could just speak generally. As the Hon. Mr Stefani is aware, from discussions that I and others have had with him, at this stage the government and, in particular, its negotiators have had matters on hold with the current negotiations with the Hindmarsh Soccer Stadium in an endeavour to, hopefully, reach some sort of satisfactory conclusion to a range of the issues that the government has in relation to the facility, and a range of issues that the Hon. Mr Stefani, too, has expressed his concern about. So, from the government's viewpoint our advice has been in recent times, 'Let's try to sort out the whole package,' and therefore for that reason the government has had on hold for some time now potential options available to it whilst it sorts through a resolution to this issue. I am sure the government shares the Hon. Mr Stefani's view that there are many issues that need to be resolved in relation to this project, and it is certainly the government's objective and the government's wish that we resolve them as soon as possible.

GEPPS CROSS CATTLEYARDS

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Primary Industries and Resources, a question regarding the Gepps Cross cattleyards.

Leave granted.

The Hon. IAN GILFILLAN: Cattle saleyards at Gepps Cross have existed for 87 years. They were publicly owned until the present government sold SAMCOR and its assets on 24 January 1997 to AGPRO Australia Pty Ltd for $4.8 million. The yards are now leased by Livestock Marketers Limited, but the lease expires on 31 January 2001. The yards are in a dilapidated condition and the livestock industry is unanimous in wanting new cattle yards constructed at Dublin, where pigs, sheep and lambs are currently traded. The issue is who will pay for the new yards. The government has offered a $1 million loan, but only if the industry contributes a similar amount.

Six weeks ago I asked in this place why the government was so stingy towards the cattle sale industry when it is contributing more than $300 million to other capital works projects in the metropolitan area. To this date no answer has been given to that question. The cattle sale industry has paid the government millions of dollars over the years. For decades every animal sold at the Gepps Cross yards generated a yard fee to the government-owned SAMCOR. In 1994 the fee was 40¢ per sheep, $3.45 per head of cattle, $1.70 per calf and $1.40 per pig. In 1995 these fees generated $1 052 000 in revenue for SAMCOR. That money was a de facto tax on the industry. The fee was not charged for services rendered because each agent had to pay an additional $200 per week (a total of an additional $40 000 per year) to SAMCOR to provide yard services such as branding and checking for sale.

Based on the 1994 fee levels and the throughput of stock in previous years, stock agents have estimated, on my approach in asking for the details, that SAMCOR received $900 000 in 1990, $1 million in 1985 and $1.6 million in 1980. In other words, about $1 million a year in today's terms was skimmed off the industry, and has been for decades. In return the cattle sale industry received only minor maintenance services in the yard. No major works on the saleyards have been carried out for many years. Most of the money received by SAMCOR was put into the abattoir side of the business, which was run at a loss.

I therefore ask the minister: given that the government received $4.8 million in 1997 from the sale of the Gepps Cross real estate, and given that it received about $1 million a year in yard fees for decades, why is it now refusing to return any of that money to the industry to build new cattleyards at Dublin?

The Hon. K.T. GRIFFIN (Attorney-General): I will refer the questions to my colleague in another place and bring back a reply.

The Hon. A.J. REDFORD: I have a supplementary question. Will the Attorney also seek an answer from the minister as to whether it is the case that agents, in promulgating avoidable auction contracts, have clearly and significantly undermined the process of the establishment of sale yards at Dublin or some other place close to the metropolitan area?

The PRESIDENT: Order! Supplementary questions arise out of the answer and, because there was no answer, that makes the question a bit difficult. However, I will allow it.

The Hon. K.T. GRIFFIN: I will refer the question and bring back a reply.

ATSIC

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Attorney-General a question on ATSIC.

Leave granted.

The Hon. CAROLINE SCHAEFER: I understand that ATSIC has today issued a media release on the government's intention to proceed to a vote on the Native Title (Validation and Confirmation) Amendment Bill. I also understand that some of the statements in that release are wrong and that the language is extreme. Will the Attorney-General explain to the Legislative Council in what ways the ATSIC statements are wrong?

The Hon. K.T. GRIFFIN (Attorney-General): It was rather disappointing to see a copy of a press release purporting to have been released by the ATSIC Social Justice Commissioner today about the legislation which is in this parliament and which is to be voted on in the not too distant future. A number of statements made in the press release are just plain wrong, and a number of statements are extreme and inflammatory and, I think, demonstrate that there is not an understanding of what the legislation seeks to do. We will have an opportunity, hopefully, to consider that legislation both at the second reading and into committee, so that people in this chamber can understand the facts and not be relying upon a lot of misrepresentation and misinformation about what the legislation does.

I must say that, apart from this press release from the ATSIC Social Justice Commissioner, there have been some quite productive consultations with the Native Title Steering Committee. We have not agreed in every respect: we are still quite some significant way apart in relation to an appropriate form of legislation.

I think that they are splitting hairs and also applying the wrong principles to the arguments that they believe will justify opposition to at least part of the legislation, but I have indicated on behalf of the government that we are prepared to make some concessions, which we believe will be appropriate, but not to forgo any rights of argument in relation to extinguishment of native title.

It must be remembered that what the state legislation seeks to do is act upon the authorisation of the federal parliament in its native title legislation passed as a result of the Wik case, which authorises the states to confirm the extinguishment of native title in relation to certain tenures and also to validate certain acts. It is important to recognise in that context that South Australia is the last state to take legislative steps to validate and confirm in accordance with the commonwealth legislation.

When I introduced a bill in this parliament in 1998 (which is now in a different form in the parliament, so it has been nearly two years), I indicated to the Aboriginal Legal Rights Movement and the Native Title Steering Committee that, if they wished to argue that certain of the tenures on the schedule of tenures in the federal legislation, to which our legislation referred, were inappropriately on the schedule, then they had every opportunity to do so.

It is in only the past month or so, a year and a half after that invitation was made and notwithstanding constant repetition of that invitation, that we finally began to get questions about tenures, but still, in only the past 10 days, an argument about what should not be on the list. The press release that the ATSIC Social Justice Commissioner has released starts with a rather extreme statement that 'this will expose South Australian taxpayers to a State Bank-style financial debacle.' That is utter nonsense.

It is utter nonsense that a State Bank-sized debacle will be created by passing this legislation. This legislation relates to 5 per cent of the state that is crown lease perpetual and another 2 per cent are tenures, which on all the arguments and decisions that have been put in court cases indicates that native title has been extinguished. It is not the case that South Australia will be faced with a State Bank-style financial debacle.

It is true that there is a provision in the federal act that if wrongly there has been an extinguishment of native title—and we are very strongly of the view that that is not the case—then compensation is payable. But that is minuscule in the scheme of things and bears no comparison to the $3 billion or more lost to the state through the State Bank financial debacle. There is an argument that this will erode basic human rights of all Aboriginal people in South Australia, and again that is not so. The fact is that the schedule of tenures on the list have been agreed as tenures which, according to all the principles established by the courts, have extinguished native title. This is confirming that that is the case on the basis that it is preferable to do it that way than to run every one of these tenures through the courts.

If people want to go to litigation, they have to understand that there will be a significant amount of costs involved and many of the people who make native title claims will not be around: they will have died by the time we get to resolve issues of native title if there are native title rights established in relation to 80 per cent of the state (which is mainly a pastoral lease), let alone the minuscule areas of land subject

to the tenures in the schedule which we seek to confirm have extinguished native title.

It states that nobody's backyard is under threat. I do not want to become extravagant in any statements I make but, in respect of some of the arguments being put to us now, it is possible that marginal lease perpetual land, for example, which is still being used by citizens of the state, might be the subject of a native title claim if the argument of the ATSIC Social Justice Commissioner is to be pursued to fruition. We do not believe that that will occur, but that is certainly the potential if the arguments of the Social Justice Commissioner are acceded to.

So, the extreme statements in this case really ignore the reality. They ignore what has occurred in the High Court in the Mabo case, in the Wik case and in other cases in the federal court; and they ignore the fact that already, on any objective assessment, native title has been extinguished in relation to the tenures which we seek to deal with in this legislation.

I am disappointed that these extreme statements are made. They misrepresent the position of the government and the legislation. I hope that we will have an opportunity to factually, objectively, rationally and sensibly discuss those issues when we get our bill into the committee stage, and hopefully we will, so that there can be a decent discussion about it.

The Hon. SANDRA KANCK: I have a supplementary question. In the light of the Attorney-General's answer, if compensation is not of the scale mentioned in this morning's release, what amount does the government consider could be involved; and, in the light of his comments about the steering committee, how many times did the steering committee meet with the Attorney-General and the Attorney-General's officers, and exactly what was achieved in those meetings?

The Hon. K.T. GRIFFIN: The amount of exposure to which the government believes it is liable is nil—and I stress, absolutely nil. No provision will be made for any form of compensation in relation to this legislation because, on all our advice and on the High Court and federal court cases, there is no compensation payable—and there will not be as a result of the passing of this act.

In terms of the various meetings with the native title steering committee, there have been a number of meetings with Mr Parry Agius and the Aboriginal Legal Rights Movement and representatives. There was a meeting last week with the native title steering committee, which sought to meet with me. In the broader context, I was in Port Augusta earlier this year in respect of indigenous land use agreement negotiations, meeting with representatives of all the native title claimants across South Australia, and I have indicated that I am prepared to meet with them again on other occasions if they wish that to be the case. There are very good relationships, I might say, among the Aboriginal Legal Rights Movement, native title claimants, the state government, the Farmers Federation and the Chamber of Mines and Energy in relation to indigenous land use agreements which, we believe—if they can be negotiated—will avoid both the cost and the tensions that will be created by continuing litigation about native title claims.

Meetings in relation to this bill have occurred over the last nearly two years, both with me and my officers and with representatives of the Aboriginal Legal Rights Movement, for example. They are probably too numerous to identify: I certainly cannot do it off the top of my head. When requests have been made, except in relation to a request which I think was made yesterday, for continuing negotiations, I have met with representative bodies.

In respect of the further consultations which were sought yesterday and a response that came from the representatives of the Native Title Steering Committee, I said that I did not think that there would be any advantage in meeting to discuss issues when they were so patently on the wrong track in relation to the principles that they and their advisers were seeking to propose in relation to the government's legislation and the schedule of extinguishing tenures.

We believe that we have made some sensible proposals, which I will be prepared to discuss when we debate the bill and, hopefully, I will be able to persuade at least some honourable members of this chamber that this legislation is sensible, reasonable and rational and is not the extreme measure that those who might have other agendas are seeking to paint it.

GAMBLING, INTERNET

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Attorney-General a question in relation to internet gambling.

Leave granted.

The Hon. NICK XENOPHON: A report by Bruce Montgomery in today's *Australian* headed 'Net sites cleared to child gamblers' states:

> Internet gambling operators will not be prosecuted for under-age gambling if children use their own money and an adult's log-on, under Tasmanian regulations that launched the state's first cyber gambling site yesterday. Facing a retrospective commonwealth ban, the Federal Hotel's-owned Southern Cross Casinos and Acting Premier Paul Lennon threatened to sue Canberra for millions of dollars if it closed the operation. . .
>
> But the loophole in the southerncrosscasinos.com site regulations that clears the operator if a juvenile uses the site—provided the child uses their own money, an adult's log-in and password—is likely to increase Canberra's efforts to stop the potential [impact of that].

In fairness to Federal Hotels, the article quotes Federal Group Managing Director, Greg Farrell, as defending the under-age provision, as follows:

> If we did not know, we would not be culpable.

If operators knowingly allow a child to gamble, they face a $60 000 fine. Will the Attorney advise whether regulations have been passed in Tasmania to protect Federal Hotels from prosecution under South Australian law? Further, does the Attorney concede that any losses incurred by any South Australian on the Tasmanian internet gambling site are, in fact, voidable?

The Hon. K.T. GRIFFIN (Attorney-General): I am not prepared to make a comment about that on the run. I will take the question on notice and bring back a reply.

PREMIER OLSEN

The Hon. G. WEATHERILL: I seek leave to make a brief explanation before asking the Treasurer a question about Premier Olsen.

Leave granted.

The Hon. G. WEATHERILL: I refer to an article in the *Advertiser* this morning in respect of the conscience of the Liberal Party, Peter Lewis MP.

An honourable member interjecting:

The PRESIDENT: Order! Interjections are out of order.

The Hon. G. WEATHERILL: He is very concerned about the Liberal Party losing the next election. He is quoted as saying—and this is a bit of recycling—that Olsen should be dumped and Brown should be taken on. In the article, Mr Lewis talks about the government losing its way—and I think most people in South Australia believe that. He also talks about the terrible mistakes made with the ETSA bill. Does the Treasurer take any responsibility for the unpopularity of the Premier in South Australia, as well as within the Liberal Party's caucus room?

The Hon. R.I. LUCAS (Treasurer): We feel some sympathy for the Hon. George Weatherill. Here he is in his dying days in the parliament and his party finally catches up with him to ask a question like that in this chamber.

The Hon. K.T. Griffin: I do not think even Ron Roberts would have asked that question.

The Hon. R.I. LUCAS: Even Ron would have said no: it would have been the first time Ron had ever said no. I think on this occasion even the Hon. Ron Roberts would have said 'No, even I won't ask this particular question if it relates to the views of the member for Hammond.' The honourable member was referring to the morning *Advertiser*. I must admit I combed the morning *Advertiser* from start to end, from the comics to the classifieds, and it took me a long time to get through all the serious news stories.

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order, the Hon. Mr Redford!

The Hon. R.I. LUCAS: It took me literally hours to get through all the serious new stories in the *Advertiser* this morning. It took me more hours to get through the serious news stories of a state political nature covering the parliament in the *Advertiser*. If the truth be known, I spent many hours reading the sports section of the *Advertiser*, which I give enormous—

The Hon. J.S.L. Dawkins interjecting:

The Hon. R.I. LUCAS: That is not the *Advertiser*.

The Hon. T.G. Cameron: That has never happened, has it?

The Hon. R.I. LUCAS: I am taking legal advice on that. I think there is an ABC sporting commentator who is trembling in his shoes at the moment. I have Mr Xenophon advising me—where is he? I have the Xenophon legal team on my side on this one.

An honourable member: There is a conflict of interest: he is suing them.

The Hon. R.I. LUCAS: On this issue I am sure the Hon. Mr Xenophon would share my abhorrence to have been mistaken for Nick Bolkus at the football. I am taking legal advice from the formidable team at Xenophon & Co to see what action I might be able to take.

The Hon. Diana Laidlaw: Xenophon's speechless.

The Hon. R.I. LUCAS: Yes. The honourable member, to his credit, in loyalty to his party, trotted out and asked the question. Members of the government treat the question—

Members interjecting:

The Hon. R.I. LUCAS: What is the Hon. Mr Cameron suggesting? The government does not take these issues seriously at all, as I think I said earlier this week. I have noted with interest the comments that the member for Hammond has made about prostitution, ducks, trees and, now, leadership, and I treat all his comments in relation to those issues in much the same way. I do not take much notice of his views on ducks, trees and prostitution. Similarly—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: If the Hon. Mr Holloway shares or condones the views of the member for Hammond in relation to ducks and trees—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Holloway says the member for Hammond's credibility is very high in relation to these issues. I bow to the Hon. Mr Holloway's knowledge about these issues because, as I said in relation to the member for Hammond and the Hon. Mr Holloway, I know nothing about ducks, trees and prostitution.

The Hon. A.J. Redford: Taragos?

The Hon. R.I. LUCAS: I do know—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: I do drive a Tarago, albeit it is one that the Lucas family budget purchased some 14 years ago. As I said, the government is not taking those issues referred to by the honourable Mr Weatherill too seriously. The Hon. Mr Weatherill in his dying days in this parliament might run a bit faster when they come chasing after him to ask those sorts of questions in the near future.

TRAIN TICKETS

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Transport a question about train ticket checking.

Leave granted.

The Hon. SANDRA KANCK: Yesterday, the minister in a reply to a supplementary question from me said that I was incorrect about people having been let through the gates at Adelaide Railway Station. I have since had information from some people who were on those particular trains who said that their tickets were not checked on the train. I am asking whether the minister is willing to retract the statement that she made yesterday. I am sure she did not knowingly deceive the parliament.

The Hon. A.J. REDFORD: Mr President, I rise on a point of order. The fact is that, if the honourable member wants to reflect on a member or a minister, she should do it by way of substantive motion.

The PRESIDENT: The honourable member has asked a question of the minister. I rule against the point of order.

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I will obtain advice on the matter that the honourable member has raised, but I do take exception to being told, even in an emotive way through a question, that I would ever deliberately deceive this place, and I want that firmly on the record.

MATTERS OF INTEREST

EDUCATION, PUBLIC

The Hon. L.H. DAVIS: In the past 10 years the percentage of full-time students at non-government schools in Australia has increased from 27.9 per cent to 30.3 per cent, an increase of 8.6 per cent. However, in South Australia the increase has been dramatic: 29.5 per cent of all students in 1999 were enrolled in non-government schools compared with only 23.8 per cent in 1990. That is a massive increase

of 24 per cent—nearly three times the national average—over the past decade. In 1990, both Queensland and Western Australia had a higher percentage of students enrolled in private schools. In 1999, that percentage was well over 1 per cent below South Australia's. The increased enrolments in non-government schools in Queensland in the past decade was just 14 per cent, while in Western Australia it was 15½ per cent.

This increase in South Australia over the past decade—about three times the national average—has meant that enrolments in government schools have shrunk from 186 452 in 1990 to 179 210 in 1999, but enrolments in non-government schools have surged from 57 973 in 1990 to 74 098 in 1999. Why is this so, particularly as the South Australian economy was significantly affected for a large part of the 1990s by the adverse impact of the collapse of the State Bank and SGIC? I have a suggestion: the Australian Education Union (AEU) South Australian Branch has been so effective in its negative carping, childish, banal, often inaccurate and unrelenting campaign against the government that it has resulted in parents voting with their feet to leave public schools and to go to non-government schools.

Basic measuring sticks clearly confirm that the public education system in South Australia is in good shape. Student-teacher staffing ratios are better than the national average, and per capita expenditure in South Australian government schools is higher than the national average and second highest of all mainland states. The AEU monthly journal conducts a guerilla war against the government, but I cannot remember seeing an article about shrinking numbers in public education in South Australia. Of course, that would be too close to home. 'Backstabber', which apparently is the favourite page in the *AEU Journal*, rarely rises above navel level. It is juvenile and trite.

The AEU is firmly against the government's Partnerships 21 initiative. No wonder many professional teachers are offended and angry about the AEU Journal; many have left the public system to go to the ever-increasing non-government schools system.

Partnerships 21 has now attracted over 40 per cent of schools and preschools. My attention was drawn to an extraordinary attack on the Para West school by Mr Bob Woodbury, Vice President of the AEU, in the March edition of the *AEU Journal*, and the response of the Principal, Mr Phil Cashen, in the May edition of the *AEU Journal*, but I will return to that in a moment.

Partnerships 21 is fundamentally about developing stronger partnerships between local schools and their community. It gives schools and preschools the authority and responsibility to make decisions about what is best for students and children in their own communities. It provides better opportunities and gets best value for the educational dollar for the benefit of students. Schools and parents know best where to target their resources so they will do the most good. It is not about cutting costs. Partnerships 21 is about local decision making, and schools are free to choose if and when they join the scheme.

Phil Cashen, the Principal of Para West Adult Campus, in his article in the May edition of the *AEU Journal* said:

> You could be forgiven for believing that the AEU has been targeting principals of Partnerships 21 schools, in a not very subtle warning to all other principals to watch out—and keep out of P21. . . The article [by Woodbury] was inaccurate and it represented a premeditated attack on the school. . . [The fact is that] Para West . . . actually voted to join P21 last year. . . the staff voted. . . to opt in. . . the AEU's strategy is to create conflict in P21 schools. . . It seems there are some AEU fanatics who really do believe it's better to attack, if not destroy, the school than see it function as a P21 site. . . I think the bottom line in this nasty little episode is that AEU ideologues need to be reminded that informed and critical analysis is still the expected norm in education debate.

Time expired.

REFUGEES

The Hon. CARMEL ZOLLO: Earlier this year when addressing a citizenship ceremony I talked about something that many politicians would probably shy away from on such occasions—the latest boatload of illegal people who had just arrived on our northern shores and were being housed to be processed. I talked about our response to this uninvited migration. I said that I believed it was incumbent on a nation such as Australia that is both a democratic and a humane society to initially accept and process anybody who landed on our shores and to determine their status. Refugees do not always arrive in neat packages.

I was somewhat heartened by the response I received. Since that time we have had more arrivals, and I have to admit that I have heard a certain amount of negative comment in the community. However, I wonder whether the compassion and acceptance that is given in such circumstances has more to do with the manner in which such obviously desperate people are portrayed in our media and the way the federal government deals with the issue.

I am sure that most of us have great sympathy for these people who lead such miserable lives in refugee camps waiting to be given the chance to call Australia or some other country their home. We should also appreciate that Australia is only one of a handful of nations that have a relatively generous refugee program. Australia was one of the countries that assisted with the Kosovar refugee crisis. Without doubt, I believe that there was initially a genuine welcome for and understanding of those refugees. No doubt many of us also questioned the wisdom of transplanting such a large group of people, only to send them back again when it supposedly became safe.

The way in which the federal government's initial welcoming stance turned sour, when it forcibly returned a number of these refugees, was disgraceful. I believe that that was aided by the way in which some media outlets portrayed minor incidents in the Kosovar community designed to lose public support. Without doubt, the majority of people who risk their lives to find their way to our shores do end up being genuine refugees. I question the logic that, if that is the case, why do we go only half way in welcoming them?

Why do we give these refugees temporary status? Why not give them permanent residency, and all the benefits that go with that status to assist them in settling into their new homes quickly? Why do we set them free in secret and when service agencies are closed? Do we need to prolong the stress and distress of such people's lives? I commend the state government for its response in assisting, welcoming and picking up some of the commitment, which obviously is a federal responsibility. I guess we need to ask ourselves what sort of commitment as a community, as a nation, do we have to our fellow human beings? There is so much poverty and suffering in the world caused by people's inhumanity to one another in the form of ethnic and religious discrimination and war.

How we respond when we are presented with situations where we can help to alleviate some of that suffering determines our reputation and standing in the international community as well as our collective and individual con-

sciences. Regrettably, there are always some people who are always ready to peddle the misery and desperation of others. We should spare a thought for the 58 people who lost their lives recently in the sealed death truck at the port of Dover, people who I understand had been trying for many months to find a country that would provide sanction. We also need to put the Australian illegal immigrant situation into perspective. In comparison with the United States and many countries of Europe it is not unusual to see a thousand illegal immigrants enter such countries in just one evening. We are still the lucky country and we can afford to continue to share some of that luck with a very minuscule number of the world's less fortunate.

VIRTUAL SPORTSCENE

The Hon. J.S.L. DAWKINS: Last month I was pleased to visit the Spencer Institute of TAFE in Port Pirie to launch the first regional practice firm in South Australia—Virtual Sportscene. Virtual Sportscene specialises in the virtual retail of top brand sporting apparel for the sporting, recreational and fashion enthusiast. Like its business partner, Mark Hanlon Sportscene, Virtual Sportscene prides itself on selling only the best merchandise. All the products sold perform well. They fit, they do the job, they look good and, because the prices are so competitive, everything in the virtual sports store is exceptional value for money.

The Virtual Sportscene Practice Firm is operated by approximately 20 employees who are studying for Certificates II, III and IV in Business (Office Administration) and are supported by facilitator Ms Penny Hardy, a registered training provider at the Spencer Institute of TAFE, and a real business, Mark Hanlon Sportscene.

The practice firm environment provides a holistic approach to learning where the theory is applied to the simulated environment. It also allows students to investigate, research and practice in a hands-on manner the theory that they have studied, so that they can perfect skills. The project has been a relatively short time in the making, beginning with research into practice firms in 1999. The set-up phase began in Term 1 this year and the trading followed in Term 2.

Virtual companies such as Sportscene demonstrate the power of new communications technologies as tools for overcoming some of the major barriers for students in an institution, in getting real life practice in a commercial environment. A practice firm is a simulated business that is set up and run by students to prepare them for working in a real business environment. The students determine the nature of their business, its products and services, its management and structure, and learn under the guidance of a facilitator and with the support of a real business what running a successful business really means.

There have been many people involved in establishing the Virtual Sportscene Practice Firm at Spencer Institute who deserve acknowledgment, and these include: Ms Pam Zubrinich, the Executive Manager, Business Services; Ms Josie Wilson, Program Manager, Business Services; Penny Hardy, whom I have already mentioned, with clerical assistance from Daniel Lawlor; and also, of course, Mark Hanlon, who is the owner of Mark Hanlon Sportscene and also the national chairman of Sportscene Franchises.

Mark Hanlon Sportscene is part of an influential, dynamic group of sports professionals, each dedicated to providing the Australian buying public with top quality clothing, footwear and sporting equipment at highly competitive prices. As the business partner for the Virtual Sportscene Practice Firm, the staff at Mark Hanlon Sportscene aim to assist in preparing people for work in today's rapidly changing business world by:

- Providing advice and information on the establishment and on technical/management matters;
- Host visits to the site for students;
- Encouraging students to apply for positions following completion of studies;
- Supporting the practice personnel with the donation of equipment, access to industry networks and advice; and
- Retail training.

This new concept provides Mark Hanlon Sportscene with a cost effective way of testing and trialling new business ideas, processes, products and marketing strategies. It creates opportunities for market research, extensive advertising and promotion, and access to a pool of potential employees who are aware of the firm's operations, products and processes. I wish all those involved with such a worthwhile project many successes throughout the venture and in extracting every possible learning opportunity from it.

NATIVE ANIMALS

The Hon. T.G. ROBERTS: I rise to make a contribution in relation to the very vexed question of native animal culls, which is faced by this state and other states. The Environment, Resources and Development Committee, of which I am a member, is looking at the problems associated with a natural or artificial build-up of native animals and birds and how to deal humanely with a cull, if one is necessary, as decided after an exchange of information across departments, and how to manage damage that is done to the environment or to commercial crops if a cull is not deemed necessary.

The committee took evidence about a number of the difficulties facing farmers on the West Coast and Yorke Peninsula. We have also taken evidence about corellas and parrots in the hills and we have asked some questions about an emerging problem in the Upper and Lower South-East concerning the possible build-up in the number of kangaroos. The position in relation to northern culls is fairly self-evident. The number of kangaroos that build up during good seasons is generally easy to count by helicopters and fixed wing aircraft, but it is not so easy to work out the patterns of build-up with birds, particularly galahs and corellas, in some geographical locations. Some birds follow a migratory pattern and in some cases there might be group flocking but there might be no overall build-up of numbers. All those issues need to be dealt with.

I will deal specifically with the problem in the South-East, which has been highlighted in the *Border Watch* of Mount Gambier, as a major problem to motorists, in particular. It is probably no coincidence that the person who is making the most noise is a councillor in Mount Gambier, a guy whom I know quite well, who is also a blue gum promoter and farmer.

A lot of words have been spoken about changing land use patterns in the South-East and blue gum forests are putting a lot of pressure on traditional farming and grazing land, and the debate about water resource allocations in both houses has highlighted changing patterns of use for both water and land. It appears from anecdotal information that the numbers are building up, and I have been given information that a lot of the kangaroos are coming from across the border in Victoria, where a lot of clearance is occurring to make way for the

development of blue gum forests. The kangaroos are also coming out of national parks.

I had intended to ask a question in parliament this week but I heard on an ABC program earlier in the week that the government was considering implementing a thermoimaging counting program to establish whether there really is a problem and, once the best scientific evidence was known, to put a solution to that problem. A National Parks and Wildlife bill, which is before this chamber, makes reference to some of these emerging problems. It is a vexed question in a lot of communities. We do not want the lowest common denominator of extermination without examination being the order of the day, which is what happened in the past in many areas. We do not want inhumane, indiscriminate killing of native birds and animals by poisoning, which is what a lot of land-holders have done through frustration, poor advice and a lack of funds. If thermoimaging is to be used to determine the number of kangaroos in the Lower South-East, I congratulate the government on that. A statement needs to be made as early as possible to indicate whether it is a real or imaginary problem and whether there is a solution to the problem.

Time expired.

HILLS FACE ZONE

The Hon. M.J. ELLIOTT: I rise to talk about the minister's recent PAR in relation to the hills face zone. A public meeting, which was held on Monday night at the Unley High School hall, was attended by about 170 people, including representatives of 20 separate community groups as well as a large number of individuals. Considering the very short notice given of that meeting, it could easily have attracted 400 or 500 people with more notice. The meeting carried a motion that the hills face zone is unique and of state importance. The meeting called on Minister Laidlaw to make horticulture non-complying, with strong conditions to ensure that there is no threat to the ecological value of the zone. It also called on the minister to immediately enact an interim, further PAR, to make horticulture non-complying in the hills face zone.

The problems first emerged in this issue when the ERD Court ruled that agriculture included vineyards and horticulture generally. It was an interesting ruling, and it is worth noting that another ERD Court ruling on transmission towers was overruled. There is a strong chance that the Mitcham appeal in relation to olive groves may yet be overruled. If that turns out to be the case, the minister under her development plan is allowing what everybody believed was not allowed, until that court decision. Some councils may be happy with horticulture within their zones, and they may have brought the pressure to bear which resulted in the current PAR. However, it is also true that a significant number of metropolitan councils are not happy with horticulture being a complying use. That is a statement of fact.

The Hon. Diana Laidlaw: Why haven't they amended their PARs?

The Hon. M.J. ELLIOTT: Because they believed until the court case that it was non-complying, and that was a reasonable belief. South Australia has the Royal Agricultural and Horticultural Society, and that is because they recognised its significance. The original development plan talked about low intensity agricultural activity. The minister, in her PAR, has added the words 'or horticultural activities in appropriate locations' and she has made those complying uses. It is also worth noting that olives, which the minister said could not be planted in the hills face zone, can be because they are non-complying uses and non-complying uses can still be approved.

If some councils want horticulture in their areas, if horticulture had been non-complying they could have chosen to do so. The problem is that councils now may choose either to stop it from occurring or to try to use the conditions that the minister has made available, I am sure with the best of intentions, in terms of spray drift and those sorts of things, but those decisions and any conditions they place can still be appealed as a complying use.

There is a real risk that in the hills face zone horticulture, gas guns, bird shooting, spray drift and all those sorts of things are still possible because it is a complying use, and the conditions that councils might try to put in from the court may not ultimately be upheld. Many things are open to very vague interpretation. For instance, it says that horticultural activities should not be located within 50 metres of an edge of stands of significant native vegetation. What is a stand of native vegetation? Is it a stand of red gums?

Could it be wallaby grass? Wallaby grass has been virtually wiped out in the Adelaide Hills, but there are significant areas of it in the Mount Lofty Ranges, in the hills face zone. If someone goes within 50 metres of wallaby grass, will that be seen by a court as a stand of significant vegetation? Goodness only knows. What we have really set up is a field day for the lawyers. But the big worry is that there has been talk of a super park. We will have a super park in the Hills comprised of existing parks, and in the middle of it we will have horticulturists operating, using sprays, gas guns and even being allowed to shoot birds.

Time expired.

CROYDON PARK CURRENT AFFAIRS GROUP

The Hon. NICK XENOPHON: Today I would like to speak about two issues. First, I would like to pay tribute to the Croydon Park Current Affairs Group. I had the privilege of speaking to members of that group last week. They meet on a weekly basis at the Douglas Mawson Institute of TAFE and have been doing so for the past 20 years. This is a group of some 20 women who meet to discuss current affairs issues, and they do it under their own steam. It was a very enjoyable 1½ hours.

A number of people did not necessarily agree with my points of view, but I thought it a very robust and enjoyable discussion. I think that we need more of those groups as part of an active citizenship that considers issues of the day, issues of public importance. I would like to publicly thank Betty Haywood, the organiser of that meeting, and the group as a whole for their invitation and for the fact that they exist to participate in current affairs on a regular basis.

The other matter on which I would like to comment is the news from the United States, from the state of South Carolina, that that state has pulled the plug on its 36 000 poker machines. This occurred over the weekend. I have been in touch on several occasions with Dr Frank Quinn, one of the campaigners involved in the move to have the machines removed, and it is very interesting that people power, at least in South Carolina, has been effective in removing the machines.

It is interesting to reflect on how that came about, and for that I am grateful for an article by Penelope Debelle in *The Age* of 14 April this year, in which the history of this

remarkable development was outlined. As a result of a move to have a referendum in South Carolina to outlaw the poker machines, to give the people a say on that, one particular member of the gambling industry thought that, given that the opinion polls were very much against the poker machine industry, they ought to challenge the validity of the referendum. They succeeded in that challenge to the South Carolina Supreme Court, but one of the unintended consequences was that, in the absence of the referendum to approve the industry, the machines had to be removed by 30 June.

The industry was apparently having a punt on the legislature of South Carolina actually validating the industry after a successful challenge to the referendum. That did not occur, so effectively the industry was hoist on its own petard. What is significant about the South Carolina decision is that it indicates that it is never too late to change a law if there is considered community opposition and, more importantly, that you ought to give the community a say on this issue.

In South Australia in 1992 an *Advertiser* opinion poll indicated that 60 per cent of South Australians were opposed to the introduction of poker machines to South Australia. We have had more recent surveys, both by the Australian Retailers Association (where 56 per cent said that they wanted all poker machines out of the state) and Productivity Commission surveys (which indicated that 76 per cent of South Australians would like to see some reduction in the number of poker machines); 66 per cent of South Australians overall would want to see a significant reduction.

These sorts of figures seem to have been ignored in the legislative sense, but it is important to acknowledge that in South Carolina they have managed to do what many had thought impossible. Within the next few months I understand that research will be carried out on levels of problem gambling, gambling addiction and, further, on the economic impact of having the machines removed. I also understand that the early predictions of the industry have not been proved true in terms of the dire consequences: the sky has not fallen in South Carolina.

I pay tribute to former Governor David Beasley, who campaigned very strongly against poker machines. He was defeated in the 1998 gubernatorial elections, largely because of poker machine money. An enormous campaign was waged against him, but I am sure that Governor Beasley, whom I met a couple of years ago, would feel vindicated today as a result of what occurred last weekend in South Carolina.

PLAN AMENDMENT REPORTS

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): This is the first occasion on which I have used the opportunity to address the Council through this new provision of Matters of Interest, but I am prompted to do so following the contribution by the Hon. Mike Elliott and because my colleague the Hon. Angus Redford has agreed to defer, or was not prepared—I am not too sure which.

It is a fascinating exercise to be a minister of planning, particularly when one deals with the Development Act, which relies so heavily on individual councils in this state being professionally equipped and adequately motivated to ensure that the responsibilities they have to prepare development plans and to update those plans through Plan Amendment Reports (PARs) are undertaken diligently. The trouble is that, whilst many councils do undertake those responsibilities diligently, many others do not.

In terms of the sensitivities of the hills face zone, which I prize, as does the government, one would expect that the councils that embrace the hills face zone would be adequately aware and prepared for the sensitivities in planning matters. The issues about horticulture and agriculture have been advised to councils over some period of time, and a number of councils have already started preparing PARs to ensure that they did not get caught out as Mitcham did in the recent court case to which the Hon. Mike Elliott refers.

Mitcham was caught out because it did not heed the advice given to it, and I alert members to the fact that this advice came internally, through council planning sources. I am aware that the former council, led by Mayor Yvonne Caddy, was given advice on 19 March last year that it should be looking at separating the issues of horticulture and agriculture. The council did not take that advice. Recently it was presented with an olive orchard proposal and was taken to court about how it would define that project. The council's arguments were dismissed by the court, and I understand that Mitcham will now appeal. In the meantime, Mitcham has come screaming, yelling and kicking to me to do something that it as a council was not prepared to do back in March last year.

I acknowledge that there is a new mayor and I accept that he would like to redress what Mitcham council has failed to do in the past. However, I highlight to the Hon. Mike Elliott the invidious position that the Mitcham council and others who embrace the hills face zone have placed me in, along with the government and the whole community, by not acting diligently on the sensitive planning issues in relation to the hills face zone. If they had acted last March, I would not have been forced to prepare a ministerial PAR to have interim effect across the whole of the hills face zone. Because I have been forced to address this issue across a 90km length of the hills face zone, I am obliged to address the issues of all councils that embrace the hills face zone, not just Mitcham council. I have been put into this position because the Mitcham council did not address its responsibilities that are provided by this parliament under the Development Act.

I feel quite strongly when I am told that I should not take account of the interest of other councils, particularly the Onkaparinga, Playford and Salisbury councils, which have the topography and could accommodate, in certain circumstances, vines grown in those areas. I highlight, too, that I have not introduced anything new. The provisions for horticulture and agriculture have been provided for in the hills face zone since it was established in 1971. I have added nothing. In fact, I have made sure that olives cannot be a complying development, and I have made sure that any assessment of vineyards is stronger. This interim PAR is on—

Time expired.

WHALES

The Hon. T.G. ROBERTS: I move:

That this Council supports the creation of the South Pacific Whale Sanctuary.

I move this motion at a time when an international whaling conference is being held here in Adelaide. A lot of time has been devoted to debating the issues in relation to two ambits, including an open slather approach to whale hunting. I guess

even the Japanese are not arguing that they take protected species that are not plentiful; but they are arguing that the minke whale and other species should be opened up for further commercial exploitation.

Australia's history in relation to whaling has been a bad one. Australian companies have not availed themselves of the commercial exploitation of whaling in recent years, but certainly in terms of commercial whaling in and around Albany there is a station presence and a reminder of a commercial whaling operation that is now set up for tourists' consideration and visitation. Our history on the taking of all sea mammals has been very bad, including sea-lions, seals and so on. A lot of our settlement was determined on the basis of our inhumane approach to the killing of a lot of sea life and, in many cases, boiling them down for nothing other than oil and, as a result, there was a lot of wastage.

The Japanese are not arguing that they waste the whale meat or blubber. They consider it a cultural delicacy. If you read the propaganda in their pamphlets their position, like some of the Scandinavian countries such as Norway, is the farthest away from total conservation. Their position is that whale species are no different from any other species. In fact, in their leaflet the Japanese describe the whale as a 'brave fish'. Their propaganda is, 'What if foreigners told Australians that they could not eat meat pies any more?' I cannot see the similarity between a meat pie and whale meat. I suspect something is lost in the translation regarding a cultural dietary necessity and an Australianised snack.

It has to be recognised that in the past the Japanese have relied on whale meat when protein was very difficult for them to obtain. International trading was not available to import meat products and other protein food groups, and the tradition of fish and rice was the order of the day. However, I do not believe that is the case now. I am told—unreliably—that only a small percentage of Japanese people can afford to eat whale meat. Propaganda from some representatives and delegates put the percentage of Japanese who eat whale meat as high as 40 per cent while others quoted a lower figure of 5 per cent. It is very difficult to get a handle on it.

However, everyone is free to state their case and demonstrate their position—that is what international forums are for. Certainly, Adelaide has benefited from the revenue generated by this type of convention. One would hope that the information put out into the public arena was accurate and that arguments were based on the best scientific evidence. There is no excuse for not knowing whether a species, including whales, is endangered or rare, or plentiful enough to cull.

As I said earlier, South Australia has a method of identifying species called thermo-imaging, but its international application is not being picked up quickly enough—and I put in a plug for the research scientists who have been working in that facility. South Australia could be leading the world in the use of thermo-imaging devices—which can be used in a fixed position or from an aircraft and which are based on heat imaging from blood and body temperatures of animals or humans—if the government and/or the private sector adopted this method of identifying not only whales but also persons lost in a forest or at sea.

I digress, but I am saying that there are ways of identifying, through best scientific evidence, the number and types of whales in particular regions. Based on that best scientific evidence, surely internationally there can be some agreement on how to proceed with the protection of whales as well as our native fauna.

Whaling nations would see the motion as a stepping stone to a total ban, but I suspect that an advocate for extending the moratorium and extending protection zones would use the best scientific evidence to analyse whether a global protection approach needs to be taken. However, the view of many South Pacific nations is that a whale sanctuary should be set up in this area. I have seen maps showing that it is not a total exclusion zone at the moment, but that is what the motion calls for.

Why would some South Pacific nations not support a total protection zone? They do not participate in or receive benefits from whaling. Presumably there is trade and diplomatic interweaving with Japan. Some South Pacific nations have voted against extending the moratorium. We know the position of Greenpeace and other protectors of international morality in relation to the protection of whales. We have seen on our television screens Greenpeace members putting themselves between whales and the harpoonist. For me, the impact of seeing the harpooning of whales from ships and watching the animal suffer pain is almost like shooting another human being. The inhumane way in which the animal is dragged on to a mother ship and processed is to be deplored.

I hope that my motion receives support at this time when we have the eyes of the world on us in relation to the extension of the protection of whales. If you are an economic rationalist, and the Hon. Legh Davis obviously would lift his head at this one, you know that more money is to be made out of whales commercially through whale watching, which is a passive recreation that gives children and adults a lot of pleasure. In regional areas, particularly the West Coast and South Coast areas where tourist dollars are hard to come by, whaling has taken on a different role as a passive form of recreation and socialising.

Whaling has no benefits for Australia, either commercial or culinary, and I suspect the long bow the Japanese draw concerning cultural integration of whale meat and their society is just that. We have come a long way. There are other protein alternatives that Japanese people avail themselves of; and the Norwegians, who eat quite a bit of meat and other protein-rich sources, could probably take whale meat off their menus.

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): On behalf of the government, I am keen to support this motion moved by the Hon. Terry Roberts. I have been advised by the federal Minister for the Environment, Senator Robert Hill, that Australia has championed this proposed sanctuary in partnership with New Zealand. The proposed sanctuary would complement the existing Indian Ocean and Southern Ocean sanctuaries providing protection from commercial whaling for many whale populations throughout their ranges. The Southern Ocean sanctuary apparently protects the feeding ground of these species, while the proposed South Pacific sanctuary would protect their breeding grounds. Certainly, the sanctuary proposed for the South Pacific complements actions already taken by the International Whaling Commission to provide sanctuaries in the Indian Ocean and the Southern Ocean.

In terms of protecting the whales in general, certainly it is important to protect the breeding grounds, and that is what would happen by creating the sanctuary proposed for the Southern Ocean. It would make a significant contribution to the protection of whales in the region, while promoting research and the development of sustainable whale watching

industries. I should note that, in championing this proposal, Australia and New Zealand were also supported by the Pacific Island states. However, these states did not get a vote yesterday at the International Whaling Commission: they are not members of the commission and therefore they were not heard when the vote was taken.

I understand from Senator Hill that there is a proposal that the International Whaling Commission be expanded in terms of its membership to include representatives from these important Pacific Island states and that there will be a further meeting of the International Whaling Commission (the 53rd) next year. One would hope that this matter of a proposed South Pacific sanctuary would be championed again by Australia, New Zealand and the Pacific Island states and, on that occasion, it would gain the three-quarters majority vote that is needed to see such a sanctuary created for the protection and conservation of whale stocks, but also as a noble gesture to the largest mammal on earth.

I was privileged some years ago to go to the Head of the Bight with young nieces and nephews. It was quite harrowing and moving to see these creatures with their new born calves and to be able to say to my nieces and nephews that, if it was not for Malcolm Fraser, who was Prime Minister in the early 1970s, all these animals probably would be dead—the oceans would be red with their blood and they would not be here. How privileged we were as Australians to have had a Prime Minister who moved to stop whaling in our waters and then the Southern Ocean in general.

The move by Australia in terms of the sanctuary certainly complements the efforts that Australia made in terms of a wilderness in Antarctica. We in South Australia live in a very prized area of the world, which has not been overly exploited by nations in the past, and we should be respecting how we treat Antarctica and our southern waters and, hopefully, shortly the South Pacific waters in terms of the future of species and the protection of the environment overall. With pleasure, I support the motion.

The Hon. M.J. ELLIOTT: On behalf of the Democrats, I support the motion. Apparently this matter may be going to a vote today: I would have liked more time to prepare, but nevertheless I will still try to make the major points. This motion calls for the creation of a South Pacific whale sanctuary and stops short of the Democrats' position, which is the end of all commercial whaling, including so-called scientific whaling—which we know is simply an excuse for whale harvest—undertaken by a couple of nations. The hunting of whales occurred to such a great extent that some species were driven to the point of extinction in the not so distant past and, despite that, some countries still want to continue the practice.

It is also worth noting that the hunting of whales is particularly barbaric. Australia does allow the harvest, for instance, of native animals such as kangaroos, and in those circumstances there is a very strict code of conduct about the way in which the kangaroo shooters must operate. They are meant to kill the kangaroo virtually instantaneously—a single shot to the head. Some people might still find that objectionable but, so far as there will be hunting, it is as civilised as hunting can be. It seeks to recognise that animals are capable of suffering and it seeks to reduce that. In relation to whales, it is still quite barbaric hunting. Some people may have seen in the last 24 hours on television Japanese dolphin hunters at work. There were pods of animals and they were brought together in a single area. The sea was bright red with blood and the animals were still swimming in it. The animals were being physically lifted from the water by their tails still alive. This is an intelligent animal being lifted alive from the water. That is the Japanese notion of taking care of and consideration for animals—

The Hon. J.F. Stefani: Mercy killing!

The Hon. M.J. ELLIOTT: The killing of whales is barbaric. It is also worth noting that, in relative terms, whales are intelligent and they also tend to have family structures. There has to be very real consideration about what happens when there is barbaric hunting of an intelligent animal, one that has significant social structures so that it leaves other animals with real grief. They may not be intellectualising grief in the way we do, although I think even human beings at the end of the day do not intellectualise grief: it is something which is simply felt—a very deep loss. We would have to believe that whales and dolphins are capable of not intelligent thought but as much grief as are human beings.

Yet this is what the Japanese and the Norwegians want to continue. They have bribed some fairly obscure nations with money to get them to vote in a specific way—countries which have had no history of whaling but which have somehow or other arrived and are participating in the ballots, just being cronies bought by the Japanese. The Japanese morality in this issue is brought into question not only by their behaviour in terms of whaling itself but by the influence they have sought to bring to bear on some of these small nations that apparently can have their votes bought. Of course, the Japanese are not the first to do that: it is something that the Americans have specialised in for a long time in terms of telling other countries what they can or cannot do. The Australian drugs laws today are a reflection of American desires, not Australian desires—but that is another story.

Having said all that and expressed great concern about the implications of whaling world wide, I believe that this motion is simply calling for a whale sanctuary in the South Pacific. It is now recognised even within fisheries that there are enormous benefits to be had from exclusion zones: where one sets up exclusion zones or, if you like, marine parks and those sorts of things, the health of the species populations is greatly enhanced. Professional fishermen have learnt, where exclusion zones have been set up, that the fisheries have become healthier as a consequence.

I am not suggesting that exclusion zones be set up for the purpose of making whaling more profitable elsewhere, but I make the point that populations can be protected by the setting up of exclusion zones. Effectively, that is what we do in Australia and other countries by the establishment of national parks: there are areas where hunting is not allowed, the goal being to ensure that there is sufficient area for the population to be sustained. When you have an animal that moves as far as whales move, and over large areas—and being fairly large, they are thinly spread—an exclusion zone for the protection of the species needs to be very large. In such circumstances, a South Pacific whale sanctuary makes absolute sense. For reasons of simple conservation and of concern about the barbarism of whaling, the Democrats very strongly support this motion.

Motion carried.

The Hon. T.G. ROBERTS: By leave, I move:

That the resolution be conveyed to the federal minister and the International Whaling Commission.

Motion carried.

OLYMPICS, TRANSPORT

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to make a short statement in response to a question asked today by the Hon. Sandra Kanck about the provision of access buses for the disabled to assist with Olympic transport.

Leave granted.

The Hon. DIANA LAIDLAW: After the Hon. Sandra Kanck asked me a question earlier today, I was advised of a request from the Olympic organisers for access to South Australia's buses for the disabled. I sought immediate advice on this because considerable speculation and hypothetical circumstances were included in the honourable member's supporting remarks and question, and I wanted to put that speculation to rest promptly.

I have been advised by the Passenger Transport Board that the Olympic Road Transport Authority had inquired whether access vehicles, particularly buses, were available to assist with Olympic transport. I am advised by the Passenger Transport Board that that request has been refused. Adelaide is hosting Olympic football events in the lead-up to the Olympics and will require the use of all access vehicles for services associated with those events.

Advice was also sought from the local disability sector and that advice, as one would imagine, was that it strongly opposed the removal of Adelaide access buses. We receive daily demands for more and more of these buses and cannot allow them to leave the state for some nine weeks during the Olympics. I highlight that South Australia is in the lead in terms of providing an accessible public transport fleet: 20 per cent of our buses have access for people with mobility difficulties and who are in wheelchairs, or who are parents and grandparents with prams, as do 100 per cent of our trains and 7 per cent of our taxis. We have been commended by the Human Rights and Equal Opportunity Commission for being in the lead in terms of accessible transport in this state. I regret that we have had to advise the Olympic Road Transport Authority that we will not be able to accommodate its request: all our access buses will remain in Adelaide.

SELECT COMMITTEE ON OUTSOURCING OF STATE GOVERNMENT SERVICES

The Hon. J.S.L. DAWKINS, on behalf of the **Hon. R.D. Lawson:** I move:

That the committee have leave to sit during the recess and to report on the first day of the next session.

Motion carried.

SELECT COMMITTEE ON WILD DOG ISSUES IN THE STATE OF SOUTH AUSTRALIA

The Hon. CAROLINE SCHAEFER, on behalf of the **Hon. A.J. Redford:** I move:

That the committee have leave to sit during the recess and to report on the first day of the next session.

Motion carried.

SELECT COMMITTEE ON INTERNET AND INTERACTIVE HOME GAMBLING AND GAMBLING BY OTHER MEANS OF TELECOMMUNICATION IN SOUTH AUSTRALIA

The Hon. CAROLINE SCHAEFER, on behalf of the **Hon. R.I. Lucas:** I move:

That the committee have leave to sit during the recess and to report on the first day of the next session.

Motion carried.

SELECT COMMITTEE ON THE FUTURE OF THE QUEEN ELIZABETH HOSPITAL

The Hon. CAROLINE SCHAEFER, on behalf of the **Hon. J.F. Stefani:** I move:

That the committee have leave to sit during the recess and to report on the first day of the next session.

Motion carried.

ABORIGINAL SITES

Adjourned debate on motion of Hon. Sandra Kanck:

That the Hon. Dorothy Kotz be censured for failing to fulfil her duty to protect Aboriginal heritage as required by the Aboriginal Heritage Act, in particular her failure to provide protection under the act for some 1 200 potential Aboriginal sites by placing them on the Register of Aboriginal Sites and Objects.

(Continued from 28 June. Page 1335.)

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I spoke immediately to this motion after hearing the Hon. Sandra Kanck move it last week and then sought leave to conclude my remarks, as I wanted to seek further advice from the Minister for Aboriginal Affairs, Hon. Dorothy Kotz, to see that I had covered every matter that she would wish me to address in response to the motion as moved by the honourable member. I am advised that she believes that the legal position has been clearly presented and does not need to be elaborated on, but I think it is worth repeating. The government's Crown Law advice, received by the Division of State Aboriginal Affairs, confirms the following:

A site or object may be an Aboriginal site or object within the meaning of the act, notwithstanding that it has not been entered on the register.

I highlight, too, the support of the Chairman of the State Aboriginal Heritage Committee, Mr Garnet Wilson, who has issued a statement trying to curb any alarm within the Aboriginal community based on the accusations and propositions and statements presented by the Hon. Sandra Kanck. I am also aware, and I believe that the Hon. John Dawkins will address this matter, that a new and improved Aboriginal heritage site database is being prepared and should be launched within two months, which will make the processing of applications in terms of the lists and the register much more efficient in future. It is a manual process now and not adequate for the task. So, I strongly resist the motion moved by the Hon. Sandra Kanck and I ask honourable members to do so also.

The Hon. T.G. CAMERON: I shall be brief. I rise to support the motion as moved by the Hon. Sandra Kanck. I am not usually persuaded by the resolutions that the honourable member puts forward, but on this occasion I have been persuaded by the argument that she has put forward. I have had my own dealings with the Hon. Dorothy Kotz's office

which, from my point of view, has left a lot to be desired; so I will be supporting this motion.

The Hon. J.S.L. DAWKINS: I rise to oppose the censure motion and I want to provide some detail of the actual situation around which the motion is based. Since 1992 more than 1 200 Aboriginal sites have been reported to the Division of State Aboriginal Affairs, and all except 46 sites have been entered into the Central Archive. An important element of the maintenance of such a Central Archive is to ensure that it does hold accurate information about the exact location, area, characteristics and conservation requirements of these sites. As a part of the collation of information for this database, in 1998 the government undertook an examination of the records on the Register of Aboriginal Sites and Objects, which indicated major discrepancies, with some sites even being recorded in the ocean or interstate.

Since that time it has been a priority of this government to ensure, through the site conservation strategy, that the information held on Aboriginal sites listed on the archive is systematically verified and the conservation needs assessed. The government is developing a new computerised database of the archive as part of our conservation strategy, which includes a geographic information system to show the location of each site on a map. This major project, costing in excess of $100 000, will significantly improve access time to site locational data to respond to inquiries. Additional funding of $300 000, spread over three years, was allocated to undertake the strategy.

I understand that more than 500 sites have been revised. The verified information for 291 sites has been processed, and the procedure for incorporating this into the database is being developed. The more than 4 800 Aboriginal heritage sites recorded in the Central Archive continued to be protected under the provisions of the Aboriginal Heritage Act 1998, and through measures such as the database and the site conservation strategy. The statements made by the Hon. Sandra Kanck on ABC Radio on 30 May 2000 claiming that Aboriginal sites would have been destroyed are, at best, totally misleading. I have been pleased to note the statement issued by the Chairman of the State Aboriginal Heritage Committee, Mr Garnet Wilson, and I will read that statement from Mr Wilson, entitled 'Aboriginal Sites', as follows:

> Mr Garnet Wilson OAM, Chairman, State Aboriginal Heritage Committee, today moved to assure Aboriginal communities and people that Aboriginal sites are provided both practical and legislative protection by being entered on an extensive database of Aboriginal sites within the Central Archives maintained by State Aboriginal Affairs.
>
> In response to suggestions that Aboriginal sites are not adequately protected by not being entered on the Register of Aboriginal Sites and Objects, Mr Wilson advised that information provided from the recently upgraded database to genuine inquiries is one of the most practical and useful means of ensuring sites are not inadvertently damaged, disturbed or destroyed.
>
> 'An Aboriginal site is provided with the full protection of the act, whether registered or not. The important thing is to know where the sites are. Genuine inquiries such as land owners, developers, mineral explorers and even Aboriginal communities need to be able to access reliable information about known sites,' Mr Wilson said. 'How else are they going to be able to meet their responsibilities under the act?'
>
> State Aboriginal Affairs has used the database to respond to over 2 500 inquiries this financial year alone.

That media release is dated 2 June 2000. The Hon. Sandra Kanck's inaccurate comments have unfortunately caused unnecessary concern in the Aboriginal community about the protection of their sites, and I encourage the honourable member to deliver an overdue apology to the Aboriginal people of this state.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

STATUTORY AUTHORITIES COMMITTEE: STATUTORY BODIES

Adjourned debate on motion of Hon. L.H. Davis:

That the report of the committee on the third inquiry into timeliness of the 1998-99 annual reporting by statutory bodies be noted.

(Continued from 28 June. Page 1340.)

The Hon. J.S.L. DAWKINS: I rise briefly to speak in relation to the third report produced by the Statutory Authorities Review Committee on the subject of timeliness of annual reporting by statutory authorities. This report shows a decline in timely annual reporting by statutory bodies for the 1998-99 financial and 1998 calendar years. The committee believes that is due in part to the timing of the 1997 state election, which resulted in less stringent tabling deadlines. The 1998-99 annual reports of 21 statutory bodies were tabled late. In addition, the committee identified 12 statutory bodies for which 1998-99 annual reports have not yet been tabled in parliament.

In order to improve consistency in annual reporting deadlines, the committee has recommended that the Public Sector Management Act be amended to provide that, where establishing acts do not outline specific time frames for annual reports to be tabled in parliament, the provisions of the PSM Act should prevail. The committee continues to be frustrated by the narrow definition of a statutory authority and has repeated its previous recommendation that the committee's terms of reference be broadened to include all bodies established pursuant to legislation; in other words, statutory bodies.

The committee also reiterates its strong view that there should be a comprehensive register of all statutory bodies and authorities. The committee believes that the government should commit some funds to develop such a register and ensure its widespread public access. The committee recognises the value of the government's Boards and Committees Information System, otherwise known as BCIS. The BCIS register consists of over 500 government boards and committees, some of which are established by legislation. It is not a register of statutory bodies and authorities. The BCIS register is available only in hard copy, consisting of nearly 1 000 pages of information.

The committee also believes that a requirement for ministers to make a statement outlining the reasons for any late reporting could lead to improved timeliness of reporting. With those few words, I commend this report to the council. It has involved a lot of work and I pay tribute to the staff of the committee, including its former secretary, Ms Helen Hele, and Kristina Willis-Arnold, who did an enormous amount of work in putting together a very detailed record of all the bodies that the committee looked at over the past few years. I commend the report to the Council.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE: ENVIRONMENT PROTECTION

Adjourned debate on motion of Hon. J.S.L. Dawkins:

That the 39th report of the committee, on environment protection in South Australia, be noted.

(Continued from 28 June. Page 1344.)

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): My contribution today will not be on behalf of the government because that response has not been prepared. However, I speak as Minister for Transport and Urban Planning and I place on record the extreme concern that has been expressed to me by the bodies that report to me, not only the marine operations section of Transport SA but also the State Committee of the National Plan that is required to be formed under MARPOL, the marine pollution conventions of the international maritime organisation. This committee did not have an input into the evidence heard by the ERD Committee.

It is of considerable concern to the State Committee of the National Plan that quite sweeping recommendations have been made by the ERD Committee without reference to the State Committee of the National Plan. Therefore I have reservations about the committee's report.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: I have never protected my own patch if it is in the national or state interest. We have entrusted to the State Committee of the National Plan very major responsibilities on our behalf, both operational and enforcement roles, and for the ERD Committee to make sweeping recommendations for change in this area and for the Hon. Mike Elliott to make a glib statement that the state committee is simply protecting its patch is irresponsible and reflects on the integrity of the committee and its recommendations.

I would not have thought that any committee could act in isolation, perhaps advance a personal agenda, and not even give the State Committee of the National Plan the opportunity to present a position or get references from across Australia about the work of the state committee in South Australia.

The Hon. M.J. Elliott: Why didn't they write to us?

The Hon. DIANA LAIDLAW: I would have thought that, if your committee was making reference to this issue, you could have sought its point of view. If the ERD Committee was reflecting on something as major as the state plan and its operation, it should have called the state committee at least in order to get its perspective. I say strongly as Minister for Transport—

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: What makes me even more agitated is the glib superficial comments from the Hon. Mike Elliott that suggest to me that I should not support immediately or at any time the committee's recommendations. If that is the attitude of the committee members as to their research and the integrity of their work, all members of parliament should doubt the quality of the recommendations. Why should this parliament be presented with a report that is not even fair, because not all the evidence was heard, and then have a member of parliament suggest that his committee could drag in the state committee when it could have easily sought those representations at an earlier stage?

It is very disappointing that this matter has been dealt with from such a superficial and politically motivated perspective and without the integrity and the value that the ERD Committee has on past occasions presented through its reports. That concludes the few remarks that I would like to make at this stage. However, I will take the remarks further in terms of the government's response to the report overall.

The Hon. J.S.L. DAWKINS: I thank all those who have made a contribution and I particularly note the minister's remarks. My only comment is that the committee advertised the reference very widely but I am not aware whether that committee was contacted directly by our staff.

The Hon. Diana Laidlaw: Yet your recommendations reflect on them.

The Hon. J.S.L. DAWKINS: I am not sure of the detail of that, minister. As I said, I thank the minister for her contribution: I am not entirely aware of the detail of whether those people had the opportunity, although I am sure that they would have. The committee normally tries to span as widely as it can. I have been aware in other committees that sometimes people have felt they have not had the opportunity. It is very difficult to contact everyone. Having said that, I thank those who have made a contribution to what has been a very complex and long-lasting inquiry and subsequent report, and I commend it to the Council.

Motion carried.

LIBRARY FUNDING

Adjourned debate on motion of Hon. Carolyn Pickles:

That this Council—

1. Condemns the state government for its failure to provide adequate and ongoing funding for public libraries in South Australia; and

2. Acknowledges the social, cultural and economic benefit to the community of accessible and affordable public libraries.

(Continued from 28 June. Page 1349.)

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I move:

Leave out all words in paragraph 1 and insert:

1. Notes that state government funding of $14.273 million for public libraries in 2000-01 incorporates real increases to all but three of the 63 public libraries in South Australia plus $800 000 new funding to provide a full year of free access to the internet, which will be particularly beneficial to all library users outside the Adelaide metropolitan area;

2. Notes that, as part of the state government's responsibility to provide adequate and ongoing funding to public libraries, the Local Government Association was advised in May 2000 that the starting point for negotiations of the next five year agreement will be the level of state government funding provided over the previous five year agreement, adjusted for inflation—an undertaking that the Local Government Association has welcomed; and

I highlighted in my remarks last week that it would come as a surprise to any person who was fair and reasonable in looking at the government's contribution to public libraries in this state, particularly this financial year, to be condemning the state government on its contribution to public libraries. It represents an increase in real terms to all but three public libraries in South Australia, and when you see the funding pressures across government the fact that funds have been found to increase the dollars in real terms is not a matter for condemnation, which this motion moved by the Hon. Carolyn Pickles suggests.

My amendment notes that the state government funding of $14.273 million for public libraries in 2000-01 incorpo-

rates real increases to all but three of the 63 public libraries in South Australia, plus new funding of $800 000, which new funding will provide a full year of free access to the internet. This is the first time that money has been provided for this purpose, and our regional library users in particular will gain enormously from it.

In amending the motion I have incorporated the words that the Hon. Carolyn Pickles has used in paragraph 1 of her motion. She condemns the state government for its failure to provide adequate and ongoing funding. As I say, there is no basis for condemning the state government for not only increasing the funding in real terms but for providing new funding for public libraries.

Therefore, I have taken the words 'to provide adequate and ongoing funding for public libraries' in paragraph 2 of my amendment and noted that, as part of the state government's responsibility to provide adequate and ongoing funding to public libraries, the Local Government Association was advised in May this year that the starting point for negotiations for the next five year agreement will be the level of state government funding provided over the previous five year agreement, adjusted for inflation. This commitment by the state government has been welcomed by the LGA, and I have noted that as part of the amendment.

As part of my amended motion I have kept the second paragraph of the Hon. Carolyn Pickles' motion, because I do not think that anyone in this Chamber would argue that there is social, cultural and economic benefit to the community from accessible and affordable public libraries. It is for that reason that the government has increased funding as approved by the Libraries Board. I do not make the allocations: the Libraries Board does. The Libraries Board has approved the increased funding for public libraries.

That is not a reason to condemn the state government, and I have not even asked for congratulations: simply to note the fact that there is increased funding for public libraries for the coming financial year, and we have already provided that the starting point for negotiations for the next five year agreement will be the level of state government funding provided over the previous five year agreement, adjusted for inflation. I am not surprised that, having received such an undertaking, the LGA has welcomed this commitment by the government.

The Hon. CARMEL ZOLLO secured the adjournment of the debate.

The Hon. DIANA LAIDLAW: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

EMERGENCY SERVICES LEVY

Adjourned debate on motion of Hon. Ian Gilfillan—

That this Council recommends to the Government and the House of Assembly the introduction and passage of a bill to amend the Emergency Services Funding Act 1998 to give effect to the following principles—

1. The amount to be raised by the levy should be limited to $82 million (adjusted to allow for inflation since the beginning of the 1998-99 financial year);

2. The levy should be based on the value of improvements on the subject land and not on the value of that land;

3. The categories of land use to be recognised for the purpose of calculating the levy should be defined by regulation to allow for greater flexibility in determining land use factors;

4. Emergency services areas should also be defined by regulation to allow for greater flexibility in determining the area factors; and

5. The current restrictions on judicial review in section 10(9) of the act should be removed.

(Continued from 31 May. Page 1206.)

The Hon. P. HOLLOWAY: The Hon. Ian Gilfillan has requested that we vote on this matter so, being obliging people, we will facilitate that. It would have been my preferred position that this motion lapse because I believe it has essentially served its purpose but, if the Hon. Ian Gilfillan wants to take it to its conclusion, we will oblige.

On behalf of the opposition I indicate that we will not support the motion, although there are parts of it with which we might agree. First, the opposition has a problem with the situation where an upper house seeks to dictate what the House of Assembly should do in relation to money matters. There is a long tradition in the Westminster system that money bills must originate in the House of Assembly. The ALP in government is well aware that it has been, more than any other party in the history of this country at federal and state level, the victim of upper house obstruction on money matters. The classic case of that was the blocking of supply back in 1975 in the Senate.

We would be hypocritical to support any motion which was originating in an upper house and which was seeking to dictate to a lower house on budgetary matters. Even though this motion seeks to get around that in a clever way, nonetheless the guts of it is that it calls on the House of Assembly to do certain things in relation to money matters. For that reason alone, the opposition has some concern with the procedure.

In relation to the specifics of the motion, I would like to make some other comments. When the emergency services levy bill was debated in this chamber, the opposition did not oppose it at the second reading stage. In the models that we were presented before the emergency services levy was debated by the parliament, the change that the levy was bringing about was portrayed as being revenue neutral. In other words it was put to the parliament that the emergency services levy would raise roughly the same amount as had the fire services levy that it was to replace.

During the debate on that bill in this and the other place, the Labor Party moved a number of amendments, as did the Democrats. We sought checks on the process. In particular, one of the main amendments that we moved fixed the percentage of the levy that would have to be paid by the government. We also moved amendments that referred the final form of the levy to the Economic and Finance Committee of the parliament.

When the debate took place (I think it was one of the last days of the session in August 1998), as we went to the dinner adjournment the Labor Party amendments had been carried and were inserted in the bill during the committee stage. During the dinner break, the Attorney-General met with the Hon. Ian Gilfillan—I remember as part of a negotiating committee we were told we were not wanted—and, after the break, the bill was recommitted. The amendments that had previously been passed by parliament were struck out. The bill in its final form incorporated new amendments that had been drawn up between the Attorney-General and the Hon. Ian Gilfillan.

At that stage of the debate, I made my views known, and my colleague the shadow minister for emergency services made his views known in another place. I would like cite those comments, because I think there has been an attempt to reinvent history in relation to this matter. Anyone who wishes to look at this can check for themselves in the relevant part of *Hansard*. I refer to the House of Assembly *Hansard* for 27 August 1998, page 1971. In the debate in the House of

Assembly on the Legislative Council's amendments, Pat Conlon said:

> The amendments of the Legislative Council should not be agreed to because they do not treat this issue seriously.

On the following page, he continues:

> I urge the committee to oppose this grubby, underhanded deal.

Then the minister responsible for this levy in the House of Assembly, the Hon. Iain Evans, stated:

> The advisory committee—

that is, the committee inserted by way of the amendments that were struck between the Hon. Ian Gilfillan and Trevor Griffin—

> that has been set up only advises and cannot decide anything. The members can advise but they cannot force the minister. The other option was to adopt the Economic and Finance Committee model which gave that committee the power to overturn the levy.

The Hon. Iain Evans concluded his remarks as follows:

> Over the last eight or nine hours we have negotiated with various Independent members and the other parties and we have come up with an appropriate deal through negotiations, and that is quite a proper process.

At page 1690 of *Hansard* on the same day (Thursday 27 August) I made the following comments:

> Given that agreement has been reached between the government and the other parties—

that is, the Democrats—

> the opposition clearly does not have the numbers so we will not be calling for a division.

That statement was made in reference to these new amendments. I concluded my remarks as follows:

> When the ratepayers of South Australia get this levy in the post on 1 July next year, it will be up to them to judge what they think of this levy and the form in which it comes. It now owes nothing at all to any suggestions which the opposition has made, so the people of this state will make their own judgment on it.

There has been some suggestion that the Labor Party supported this bill. Indeed, while I have the opportunity, I would like to correct comments that I have discovered in reading through some of the debate. On 25 May 1999, at page 1355 of *Hansard*, the Premier in another place stated:

> For the leader's benefit, I suggest he had better take a look at *Hansard*. He will see that it was Paul Holloway in the upper house who, on 18 August, said that the Labor Party was not opposing this bill.

Of course, on 18 August we were debating the second reading. As is the custom, I made it clear—and I have made it clear here today—that, when the bill came to this parliament, we did not oppose the principle of the emergency services levy as a replacement for another form of charging. However, the comments I made on 27 August and the comments of my colleague in the other place, Pat Conlon, represented the final position of the opposition. It is important that at least that part of the record is corrected.

It is true that the emergency services levy is a money grab by the government, and the government has been punished appropriately. When the emergency services levy was first proposed, there was a system in place to raise money through a fire services levy (I believe it was approximately $60 million), and there were contributions from local government ($13 million). Of course, what the government produced after this bill was passed, with the amendments that had been worked out in the deal with the Democrats and, in fairness, I do not think the Democrats should take all the blame—

The Hon. T.G. Cameron: That is kind of you.

The Hon. P. HOLLOWAY: Well, as Minister Evans said, if the amendments had been passed by this Council (and the Hon. Terry Cameron voted for them before the dinner break) the Economic and Finance Committee would have had the capacity to block the emergency services levy. However, that was overturned after the dinner break when the bill was recommitted. In the history of this debate, that is a point that needs to be remembered. Anyone who doubts that—

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: Yes; that is right. The Hon. Terry Cameron had left the Labor Party about two days before—

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: Well, you did not have to. To put the record straight, the Hon. Terry Cameron had left the Labor Party just days before 27 August. At the time, I think the view of honourable members was that the emergency services levy was revenue neutral—that the new levy would raise an amount that would offset what was previously raised by another mechanism, namely, the fire services levy.

Of course, when the government finally came up with the levy in the budget some 12 months later, it was raising $120 million, compared with the $60 million previously raised through the fire services levy, and that is when all the protest began. As a result of the outrage from the community, the government has made a number of changes to the system which has reduced the amount of revenue to be raised to something approximating what it raised previously. In my view, that has happened in the correct way through the political system. I do not believe that it requires dictates from the upper house to a government formed in the lower house to—

An honourable member interjecting:

The Hon. P. HOLLOWAY: It is a recommendation that a bill be produced to require certain things. I consider that governments have a right to govern, but they must be accountable for their actions. The opposition will certainly hold this government accountable for its actions: that is the way the system has to work. Governments make their decisions and raise revenue for their programs, but then they have to face the people on the results. Ultimately, the Olsen government will be judged by its performance on the emergency services levy over the past two years. The ALP will outline its plans at the appropriate time. This government is nearing the end of its first three years in office and it can hold an election any time after three years since parliament first meets.

An honourable member: Don't hold your breath.

The Hon. P. HOLLOWAY: No, I will not be holding my breath, that is for sure. The government has indicated that it will endeavour to hold off until some time in March 2002. In other words, it wants to be by far the longest serving government in this state's history. I think the people might have something to say if it tries that. As far as the opposition is concerned, this government's four years will be up in October next year—some 12 months away. We will detail our financial plans at the appropriate time. One thing we will want to know is the state of South Australia's finances. I think that needs to be known, given the government's privatisation agenda, which is in chaos at the moment. We hear that the privatisation of three assets have been withdrawn. Ports Corporation and the—

The Hon. T.G. Cameron: Has that gone, too?

The Hon. P. HOLLOWAY: We believe so. Certainly, the debate was not continued last night. So, we do not know what is happening with that. The Lotteries Commission and TAB legislation has been withdrawn—for how long, I am not sure. Of course, we know the problems the government is having with the state's electricity privatisation program. The Labor Party will announce its financial plans at the time of the next election, and we will cover these matters then. As I have said, in relation to the motion of the Hon. Ian Gilfillan, the Labor Party has a lot of problems with it, although some parts we would not take issue with. Some of the clauses do deserve comment.

In the first part of his motion the Hon. Ian Gilfillan states that the bill that we want the House of Assembly to introduce should cap the levy at an amount of $82 million, adjusted for inflation. You would not want the government's ETSA advisers being responsible for drafting legislation to cap the levy adjusted for inflation, but that is another matter. It is interesting that the amount that the Hon. Ian Gilfillan proposes as the cap is above revenue neutrality.

The second part of the motion states that the levy should be based on the value of improvements on the subject land and not on the value of that land. I reserve judgment on that matter at this time. I understand that a report on the valuation of land was handed down recently. It is quite a thick report. We all got it a week or two ago. Unfortunately, because of the other business before the parliament, I have had only a cursory glance at that report, but this Council will need to address that issue in the future. I would not commit myself one way or the other at this stage, and I think all members of this place would like to look at that report and consider the arguments.

In relation to the fairness or otherwise of the method of imposing this tax, I said earlier that the government had been forced by political pressure to make changes to the emergency services levy. In my opinion, it is by no means clear that the final form in which the government has produced those changes is equitable. I note, for example, from the table of the new levy amounts that the levy on a house in Adelaide worth $80 000 is $57, $1 more than the levy on a primary producer who has a farm with a capital value of $400 000. Thus the levy of $57 for the $80 000 house would apply to some of the poorest people in Adelaide, whereas the levy for the primary producer in regional area 2 would be $56.

There is no doubt that the changes that the government was forced to make were in response to political pressure. I would not concede that the way the government reacted is anything other than a political response and I would not commit myself to saying that the changes are fair and equitable. As I said, they are matters on which the Labor Party will put its view at the appropriate time.

I believe that many iniquities remain under the emergency services levy. For example, a very high collection cost is associated with the levy: $10 million has been suggested, and that is a large proportion of the revenue received. That is a matter that this government or any future government would need to look at.

It is interesting that the previous method of collection was like the GST collection: it was carried out by tax collectors. Under the previous system, insurance companies collected the fire insurance levy and local government collected the levy on rates. I remember that when this matter was being debated in parliament local government believed that it could collect the levy at a much lower cost than the cost under the government. The government established a mechanism through the Treasury to collect the levy. Those mechanisms were already in place by other means and, as a result, there are high collection costs.

My final point is that the reason why we had such a blowout in this levy in the first place is the government radio contract. Hopefully, that contract will involve no more hidden blowouts and its completion will take some pressure off the other parts of the emergency services budget. However, we will have to wait to see the outcome. That has been one of the reasons why this saga has arisen.

To summarise the Labor Party's position, we do not support the motion. We do not believe it is appropriate that the upper house should suggest in this way what the House of Assembly should do in relation to its budget. We accept that the government has a right to govern. Ultimately, the government will be held responsible by the people for the decision that it makes on this and other revenue matters. When the next election comes around, the Labor Party will be putting its views on these and other matters related to our programs and how we will fund them, and the public of South Australia will then have a choice. We do not believe that the passage of this motion will serve any useful purpose. However, as I have indicated, certainly there are many things about the emergency services levy that the opposition does not support. With those comments, I indicate that we do not support the motion.

The Hon. CAROLINE SCHAEFER secured the adjournment of the debate.

TAXIS AND HIRE CARS

Adjourned debate on motion of Hon. T.G. Cameron:

That the regulations under the Passenger Transport Act 1994 concerning vehicle accreditation, made on 17 June 1999 and laid on the table of this Council on 6 July 1999, be disallowed.

(Continued from 28 June. Page 1353.)

The Hon. T.G. CAMERON: I do not have anything further to add—I can count. I am quite happy for a vote to take place.

Motion negatived.

CONTROLLED SUBSTANCES

Adjourned debate on motion of Hon. C.A. Pickles:

That the regulations under the Controlled Substances Act 1984 concerning expiation of offences, made on 3 June 1999 and laid on the table of this Council on 6 July, be disallowed.

(Continued from 28 June. Page 1353.)

The Hon. CARMEL ZOLLO: I am sure that my colleague the Hon. Carolyn Pickles moved this motion to disallow with the very best of intentions and long held beliefs. She talked about honesty in her contribution, mainly that some people use marijuana quite safely, that is, for recreational purposes. I add that many do not. I congratulate the government for having taken this decision and for the production of the booklet *Talking about Drugs*. Yes, we are hypocritical in relation to the use of drugs, but I do not believe that, if we are talking about self use, I am being hypocritical in opposing this motion.

Statistics and other evidence clearly show that the regular growing of up to 10 cannabis plants is serving more than self use. Given the information we now have available in relation to cannabis being a drug of dependency, at least for 10 per

cent of the people who smoke it, I feel quite strongly that as a community we should be able to take appropriate action through parliament when we can see that regulations are causing problems which were not anticipated at the time of their introduction.

I place on record that I do not want to see the expiation system as such changed. I do not believe that young people in particular who may be experimenting with illicit substances should be penalised with a police record or end up in prison. The intent of the act was for self use, and it should remain that way. Given new technology and superior growing stock, I am advised that one should be able to regularly grow three plants with great success for self use—

The Hon. M.J. Elliott: Is that your personal experience?

The Hon. CARMEL ZOLLO: No, it is not my personal experience. Is it your experience? Do you know?

The Hon. T.G. Cameron: That is absolute nonsense: you ought to check the rubbish that people give you.

The Hon. CARMEL ZOLLO: From the briefing the Labor Party received, I understood the police had ample evidence that, when it was possible to grow up to 10 plants for personal use, some people were using hydroponics to grow marijuana as a means of illegal trafficking. Using this method, it is more than likely they were growing up to four crops in one year of 10 plants each: a total of 40 plants. I agree that allowing people to grow 10 plants for personal use makes it far too easy for those who choose to deal in cannabis or take part in growing it as a syndicate for illegal purposes. In the same briefing provided by the police department, I believe we were told that growing just six plants a year can earn $10 000 in a good year, and that explains why some people take the risks involved with growing illegal crops.

Under the 10 plant rule, hydroponics opened up a whole new field for people who pedal misfortune with a good commercial dealer and being able to produce a crop five times a year. I do not believe that such people are simply taking part in a cottage industry. Obviously, the surplus is sold and not necessarily to one's best friend for an occasional smoke. It does end up creating more people who are dependent on the habit while at the same time making some people rich. I have seen and been in contact with enough young people in my previous employment to know that a certain number of them with talent and a future in whatever field they would have chosen began smoking pot in their teenage years—probably for all the wrong reasons as teenagers often do—but who then became totally or partially dependent on the drug.

The outcome is pretty predictable. They become disinterested in their lives and futures, simply coasting along and smoking the drug as an escape. It is easier to do that than to make decisions about their education and growing up. When marijuana is smoked frequently it replaces whatever void they have in their lives, often causing them to drop out of education and relationships. They are often unable to hold down permanent employment, and regrettably for some it causes mental illness if they have such a predisposition. Some move in undesirable circles and then move on to harder drugs.

At the caucus briefing the comment was made that often young people—and it is usually young men—want to get off the habit at around the age of 25 years, but apparently not enough resources are directed towards assisting them. It is obvious that for many it is a difficult time, because they did not make all those empowering decisions when their peers made them in relation to finishing off their education or seeking employment.

I find fault with the argument that it is best to have lots of little criminals peddling drugs than for the Mr Bigs to do so. I think that anybody who knowingly traffics in or benefits from the proceeds of drugs is equally guilty. Apparently, there is evidence that crime groups are involved in the syndication of the growing of marijuana. When we as a community have recognised the harm that tobacco can have on our health, why should we want to send out the message that marijuana is okay for recreational purposes when we know that its users run the risk of chronic bronchitis—

The Hon. K.T. Griffin: You want to ban tobacco? You should ban alcohol too, then.

The Hon. CARMEL ZOLLO: No, I don't want to ban tobacco, but I don't want to make it easier for people.

The Hon. K.T. Griffin interjecting:

The Hon. CARMEL ZOLLO: I wasn't saying that at all. Perhaps you were not listening. Why do we want to send out the message that marijuana is okay for recreational purposes when we know that its users run the risk of chronic bronchitis, and cancers of the lung, mouth and throat. The drug also contains—

The Hon. Carolyn Pickles interjecting:

The Hon. CARMEL ZOLLO: That's what I was saying. The drug also contains more tar—

The Hon. Carolyn Pickles interjecting:

The Hon. CARMEL ZOLLO: Well, we're not banning marijuana, are we? We just do not want to make it easier for people to continue smoking it. The drug also contains more tar than an equivalent weight of strong tobacco, and its smoke contains higher amounts of cancer causing agents than does tobacco smoke. I am unable to support the motion because of the percentage of people—which I understand to be around 10 per cent—who become dependent on the drug, most of whom are young people.

The Hon. T.G. CAMERON: I was not going to speak to this motion, even though I had intended, right from the outset, to support it. However, some of the ignorant comments made by the previous speaker have forced me to—

The Hon. Carmel Zollo: Ignorant in your opinion, but not necessarily ignorant. Just because you—

The Hon. T.G. CAMERON: Ignorant in most people's opinion. You wouldn't know what you are talking about. Someone gave you that speech and you read it out.

The Hon. Carmel Zollo: No, they did not give me that speech. I wrote my own speech.

The Hon. T.G. CAMERON: You certainly didn't write it yourself.

The Hon. Carmel Zollo: I most certainly did.

The Hon. T.G. CAMERON: If you wrote it yourself you are more ignorant than I currently think you are, and that is pretty stupid, let me tell you.

The PRESIDENT: Order! Those comments are unparliamentary.

The Hon. P. HOLLOWAY: On a point of order, Mr President, I believe that those comments are unnecessary and unparliamentary, and they should be withdrawn.

The PRESIDENT: Will the Hon. Mr Cameron withdraw those comments?

The Hon. T.G. CAMERON: Could the President tell me which comments he would like me to withdraw? I spoke for about five minutes, and the Hon. Paul Holloway has not provided me with any assistance whatsoever as to what I should withdraw.

The PRESIDENT: The comments I would like you to withdraw are those whereby you reflected on the member by calling her stupid.

The Hon. T.G. CAMERON: I will withdraw the comments, Mr President. I will have to find another word to replace the word 'stupid' the next time I talk about the honourable member. Anyway—

The Hon. G. WEATHERILL: On a point of order, Mr President, that is not acceptable. The member apologised and then repeated it. I think he should withdraw and apologise.

The PRESIDENT: Will the Hon. Mr Cameron withdraw those further comments and apologise?

The Hon. T.G. CAMERON: I have already withdrawn the comments.

The Hon. G. Weatherill: Then you repeated them.

The Hon. T.G. CAMERON: No, I didn't.

The PRESIDENT: Would you please not repeat them.

The Hon. G. Weatherill interjecting:

The Hon. T.G. CAMERON: No, I did not. This has happened to me before, Mr President: people get up and claim that I have said things I have not said, and then I am asked to withdraw what I have not said. You tell me what you want me to withdraw.

The PRESIDENT: The Hon. Mr Cameron clearly said that he would try to find another word to replace the word 'stupid'. That is what the Hon. Mr Weatherill is objecting to.

The Hon. T.G. CAMERON: Then I withdraw that comment.

The PRESIDENT: Thank you. The Hon. Mr Cameron can continue.

The Hon. T.G. CAMERON: Thank you. I shall go through the dictionary tonight.

The Hon. G. Weatherill interjecting:

The Hon. T.G. CAMERON: Well, you would have trouble—

The PRESIDENT: Order! The honourable member should not reflect on—

The Hon. T.G. CAMERON: If people want to interject and get personal, then I will do the same back.

The Hon. G. Weatherill interjecting:

The PRESIDENT: Order, the Hon. Mr Weatherill! The Hon. Mr Cameron has the call.

The Hon. T.G. CAMERON: I will get back to the motion that was moved by the Hon. Ms Pickles. When the Labor government introduced this bill, it set the limit at 10 plants, and I understand that was in consultation with a wide range of people in the community. The thing that I have trouble with in relation to the way the government has acted in this matter is that it consulted nobody. It did not consult the opposition and it did not consult any of the other parties. Dean Brown took to cabinet a proposal to cut the number of plants from 10 back to three, and it was ratified and announced without any consultation at all.

The Hon. Carmel Zollo referred to the fact that she is quite happy with the current situation which allows for three plants per year, and she said that that would be more than sufficient to provide anybody who wished to smoke marijuana with a sufficient supply. Once again, without going into too much detail, I think that shows a lack of knowledge and an ignorance of the facts in relation to this matter.

If South Australians believe that organised crime is not currently very active in this state in a number of areas, and the drug trade is one of its favourites, they are sadly mistaken. The government's move to cut the number of plants from 10 to three has had one simple effect: it has handed the bulk of the marijuana trade to organised crime. It has transferred the trade from small operators, and I think they were referred to as 'small time criminals' by the previous speaker—

The Hon. M.J. Elliott: Disorganised crime.

The Hon. T.G. CAMERON: There has been an interjection that it is disorganised crime. I have no doubt that there were people organising syndicates to grow marijuana, 10 plants at a time. However, that pales into insignificance compared to what we will now have to experience. The Mafia and the various other organised criminal organisations—I will not name them by their ethnic group because that will only trigger more protests—would have been shouting from the rooftops and clapping their hands when Dean Brown and this government cut the number of plants back from 10 to three, because all it has done is to shift the growing from small backyard operators to large time operators who are financed and organised by and under the control of the organised—

The Hon. Carmel Zollo: Small backyarders are working for the larger people, surely.

The Hon. T.G. CAMERON: Again, the honourable member interjects and—

The Hon. Carmel Zollo: Again I interject! You interjected throughout my speech.

The PRESIDENT: Order!

The Hon. T.G. CAMERON: —displays her ignorance—I will refrain from saying stupidity—on this matter. The net result of the government's action has seen the following. In the first instance, the bulk of marijuana growing has been transferred to organised crime. That may suit the South Australian police force: from time to time it can grab a headline and can be seen to be destroying marijuana crops. However, I put it to this Council that the amount of marijuana available on the streets is still about the same as it ever was. The single difference now, though, is that the distributors—that is, the small-time dealers who are peddling their $20, $25 and $30 packets of marijuana—are part of the organised underworld: they are now part of the Mafia.

When young people go along now to get their $25 bag of marijuana they are being told that it is not available. I want the Attorney-General to listen to this. They are being told that it is not available. 'We do not have any at the moment,' and they are being offered amphetamines at discounted prices, often for free, and for regular users of marijuana they are being offered heroin for free. Why? It is because of that simple act that the government undertook by cutting the number of plants back from 10 to three. I concede—and I do not think anyone in this chamber who knows anything about what is really going on out there in society would argue with this—that people had organised for two, three or four people to grow a number of plants. The structure of the distribution of the marijuana from that source basically occurred with, amongst and through friends. That has changed dramatically.

As a result of what the government has handed down the distribution of marijuana from friends and amongst various social groups—'Oh yeah, Fred grows a few plants in his backyard, we'll go and see him'—has now changed. The distribution network has now changed, and my suspicions, and they are certainly confirmed by talking to people who go and buy marijuana, are that the distribution has changed from backyard operators, from friends over to a network—

The Hon. M.J. Elliott: Who sell only cannabis.

The Hon. T.G. CAMERON: Yes, who only sold cannabis, who would not trade in heroin, amphetamines, speed, cocaine, etc. But now our young kids as they go and

seek a bit of recreational marijuana—which we have sort of deemed is okay provided you grow only three plants a year—

The Hon. Carmel Zollo: I did not say per year; I said three plants. So, stop misquoting me, for a start.

The Hon. T.G. CAMERON: Have you any idea how long it takes to grow a marijuana plant?

The Hon. Carmel Zollo: Stop misquoting me.

The Hon. T.G. CAMERON: I was not actually quoting you.

The Hon. Carmel Zollo: You have quoted me before saying three plants per year. I did not say that.

The Hon. T.G. CAMERON: Was I quoting you then? No, of course I wasn't.

The PRESIDENT: Order! The honourable member will come back to his contribution.

The Hon. T.G. CAMERON: The honourable member should not jump in and interject if I am not quoting her. Perhaps you are being a bit too sensitive.

The PRESIDENT: Order!

The Hon. T.G. CAMERON: But if you knew, you would have some idea of how long it might take.

The Hon. Carmel Zollo interjecting:

The Hon. T.G. CAMERON: There is always a danger when you get someone else to write speeches for you and you don't know what you are talking about.

The Hon. CARMEL ZOLLO: On a point of order, Mr President. I have just been told that somebody else wrote my speech. I will not have that said: I write my own speeches.

The PRESIDENT: Order! It is not a point of order.

The Hon. T.G. CAMERON: I suspect the honourable member would not have any idea of how long it takes to grow a marijuana plant, whether it is nine weeks or nine months. Be that as it may, the action by the government has switched the growing and, more importantly, the distribution of drugs over to organised crime. So when our young children go and attempt to buy their recreational marijuana they are now having to go and see people who stock a wide range of drugs, which I have just outlined, and they are being offered discounted heroin, in some cases free heroin, and they are being offered discounted amphetamines and speed.

If the government is not very careful, by its own action it will switch this generation of young people, who for whatever reasons, best known to themselves, seem to prefer smoking marijuana than drinking alcohol. All it is doing is switching these people over to amphetamines and speed, and it will turn this generation of young people into speed freaks, rather than people who may smoke marijuana occasionally. The only real benefit that I can see from what the government has done is that it has kept the South Australian police happy. Perhaps all those who supported the government regulation go home and sleep comfortably with the knowledge that somehow or other they have stamped out the drug trade in this state. That is just nonsense. It has in fact switched people from a soft drug to one of the harder drugs which can lead to addiction, rather than a psychological dependence that people might end up with on marijuana. I abhor the decision that was taken by the South Australian government. I have always thought that Dean Brown was a clown. That decision only confirmed it. The real disappointment was that other people acted upon it.

The PRESIDENT: Order! The honourable member will not reflect on other honourable members.

The Hon. T. CROTHERS: My colleague from SA First has canvassed a lot of the issues that I wish to address, but there are, I believe, some more subtle implications that will flow from what I believe is an honest attempt by the government to address the drug problem as a whole. However, I believe that the opinions of members of the government are both convoluted and wrong. My honourable friend the Hon. Terry Cameron referred to the Mafia in this country in respect of drug control. Let me retrace history. The old Mafia bosses in America prior to prohibition would refuse to have anything to do with dealing in drugs. In those days the drugs in question—and they were used even at that time just shortly after the First World War, and before—were heroin and cocaine. With the advent of Lucky Luciano as the capo di tutti capi they changed and they were then into drugs and other items where they could get big swags of illegal money from their criminal activities. But it is not the Mafia here who really is responsible for the peddling of drugs. I suppose if there is an organised syndicate of Italian crime that may well be so. There are other elements—

The Hon. Carmel Zollo: I think there are more than Italians involved, Trevor.

The Hon. T. CROTHERS: Don't forget about Legs Diamond—he was Irish. Don't get touchy. And Bugs Moran was Irish. So I am not pointing the finger at any ethnic group or other, but I do believe that some of the bikie clubs—and people seem to be frightened to talk about them—are responsible to a large extent relative to extracting large amounts of criminally achieved money out of the role that they play in respect of drug addiction in this nation.

The Hon. Nick Xenophon interjecting:

The Hon. T. CROTHERS: Whatever; that is the next step up the ladder, and I will come to make that comparison. In addition to them there is the Sydney underworld which certainly had big connections under Lenny MacPherson and other leaders of that underworld 20 or 30 years with the American underworld. Again, the thing that they were interested in was drugs. There were some very interesting reports that were very prominent in Australia some years ago given on TV in relation to someone who was nicknamed, to cloak his real identity, the Goanna. I will not name who that was but he is a well-known, very wealthy Australian. Of course, that was denied all around. This was put on I think to the ABC by a fellow called Toohey, or it may have been one of the other crime reports.

So I think in spite of the best intentions of the government it has opened the door of opportunity wider than currently is the case for organised crime to play more and more the dominant role in drug taking. The worst thing about marijuana is that, in my humble view, it is used as a first step to lead people into the taking of drugs of greater addition and with much more damaging consequences than marijuana could ever involve. Marijuana, in fact, grows in ditches in countries like Egypt and is smoked by the indigenous Egyptians without any clamour at all from the government or the law with respect to it being banned as a prescribed substance.

Other implications flow from this, and that is one of them. There will be less capacity for young people to grow their own, and I do not really care whether it is three plants or 10 that can be grown. What I do care about are the implications that flow from it, the implications of doing what I believe is the wrong thing. Instead of decriminalising the process and having some meaningful impact in respect of combating drugs, the government has chosen not to do that.

This retrograde step by the government clearly defies the working knowledge that we have garnered over the years from the Volstead act and from organised crime in America, the UK and everywhere else. We cannot deal with the

alarming rise in the incidence of drug addiction by going down this path. We cannot do so. It reminds me of euthanasia, where medical doctors, who make a big easy quid out of old people dying in hospices, speak out vociferously against the capacity of people to avail themselves of euthanasia. It is a wrong-headed approach and it is a politically correct approach. It is an approach designed at showing how this government, and Labor governments before it, deal with the matter and thus how it will ingratiate itself at the next electoral fiesta in South Australia. Indeed, the federal leader of the parliamentary party of this government's persuasion will not even have safe injection clinics as a new endeavour to try to deal with the problem of drug addiction.

The implication is simply this: in spite of what people say, marijuana is a first step. It renders people vulnerable, and that is what flows from what the government has done by implication. It renders them increasingly vulnerable to organised crime, because that is the problem. Organised crime is organised. Than can put game plans in action. People acting in ones, twos or threes are not effective, and that is the other thing that flows from this by implication. A set of guidelines have been put into the hands of organised crime and they will be used to the maximum. Organised crime figures will use this position in respect of marijuana to induce people to go to harder drugs.

No-one knows it better than I. My own son—and I still almost want to cry when I say it—died from a drug overdose. I understand drug addiction quite well. I want to see it destroyed and destroyed utterly, so as no other young lives are destroyed, and they run at thousands each year in this nation and hundreds of thousands across the world. It appears to me from reading the statistics that I can garner that the only countries that have had some success in dealing with the drug problem are Holland and Switzerland, which have endeavoured to apply a different approach with safe injection havens, etc. That was after years of trials.

Those of us who do not learn the lessons of history—and that is what this government has done—in the immortalised words of whoever said it, are doomed to repeat the same mistakes of history. I absolutely cannot support what the government is doing. I understand what its thinking is, and I think it is woolly headed and wrongly directed, and it will have the opposite and greater impact than that which it intends, by having this matter more rectitudinally dealt with than has hitherto been the case. It has not worked elsewhere over the past 50 years and it has not worked elsewhere over the past decade. It will not work now. Drug addiction in this nation is becoming more and more of a menace, not less, and I would certainly not—

The Hon. T.G. Cameron: When will they wake up?

The Hon. T. CROTHERS: Probably about 10 minutes after you if you keep interjecting. They will not and cannot understand if they do not address the lessons of history. I deplore the measure standing before us in the name of the present state government.

The Hon. NICK XENOPHON secured the adjournment of the debate.

[Sitting suspended from 6.00 to 7.45 p.m.]

ASSOCIATIONS INCORPORATION (OPPRESSIVE OR UNREASONABLE ACTS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a bill for an act to amend the Associations Incorporation Act 1985. Read a first time.

The Hon. K.T. GRIFFIN: I move:

That this bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

This Bill amends the Associations Incorporation Act, s.61, which provides a mechanism for dealing with conduct by an association which is oppressive or unreasonable towards a member or members. At present, an aggrieved member, or a former member who has been expelled from the organisation, may apply to the Supreme Court for orders regulating the affairs of the association. The Supreme Court is given a range of powers to deal with any oppressive or unreasonable conduct.

The Bill arises out of a concern, raised with the Government by the Law Society, that access to justice is hampered by the restriction of this jurisdiction to the Supreme Court. Many members of associations may not be able to afford to fund Supreme Court litigation. Indeed, in many cases, it may tax the resources of smaller associations as well. Further, the Supreme Court is geographically remote for associations in rural and regional centres, and there are additional costs and inconveniences for them in pursuing this remedy. Moreover, in many cases, these disputes may not be so legally complex as to require the attention of the Supreme Court.

For these reasons, the Bill confers jurisdiction in such matters also on the Magistrates Court. This does not derogate from the jurisdiction of the Supreme Court—the application can be brought in either court. However, the power to wind up an organisation, or to appoint a receiver or manager of its property, is reserved to the Supreme Court. This is because these are more serious remedies, and also because a smaller number of incorporated associations are institutions of some size and substance, and whose winding up or receivership would be a serious case. A party who seeks such an order must apply to the Supreme Court.

While the Magistrates Court will not be able to wind up an association, if at any time during the progress of a matter in the Magistrates Court, the Court reaches the view that this is a case for winding up, or for the appointment of a receiver or manager, it may transfer the matter to the Supreme Court. However, this can only be done after efforts have been made to conciliate the matter.

Further, to avoid the misuse of this provision to deal with disputes which more appropriately belong in other specialist courts or tribunals, it is provided that either court may decline to hear a matter which in its view is more appropriately dealt with elsewhere. An example might be a dispute which, although involving the members of an association, is really an industrial dispute which should be dealt with by the Industrial Commission.

In addition to creating jurisdiction in the Magistrates Court, the Bill makes clear that either court, in dealing with these matters, has a broad power to make whatever orders are necessary to remedy a default, or resolve a dispute. This is designed to give flexibility and discourage technical arguments as to whether the court has power to make a particular order sought. For the same reason, the present provision that a breach of the rules may be regarded as oppressive conduct, is removed. Whether conduct is oppressive or unreasonable is a matter to be weighed by the court having regard to all the evidence. The court will consider the breach in its context. It may amount to oppressive or unreasonable conduct, or it may not.

The Bill also expands the categories of members who can seek a remedy. Under the present Act, one can only apply to the Court if one is a present member, or has been expelled. This does not assist members who have resigned or failed to renew membership. Under the Bill, any member or former member can apply for a remedy, regardless of how the membership came to an end. However, they must act within 6 months of ceasing to be member. It is not intended to permit application by former members who have had nothing to do with the association in recent times.

The Bill is a minor practical measure to enhance access to justice, particularly for smaller associations and their members, or those which are country-based. It does not derogate from the powers of the Supreme Court, nor the right of members of associations to seek a

remedy there, but it offers an alternative, cheaper and less formal means of resolving these disputes.

I commend this bill to honourable members.

Explanation of Clauses

Clause 1: Short title and *Clause 2: Commencement*

These clauses are formal. The measure will commence on a day to be fixed by proclamation.

Clause 3: Substitution of s. 61

Section 61 of the principal Act is replaced by proposed new section 61, which differs from the principal Act in the following respects :

Under proposed new s. 61(1), a member or former member of an association who believes the association has acted oppressively or unreasonably may apply to either the Supreme Court or Magistrates Court for relief. Section 61 of the principal Act only allows applications to be made to the Supreme Court, and an application by a former member can only be made if that member has been expelled from the association.

Proposed new s. 61(3) states that a proceeding in the Magistrates Court under this section is a minor statutory proceeding.

Proposed new s. 61(4) sets out the types of orders that the Supreme Court and Magistrates Court may make. These orders are currently set out in s. 61(2) of the principal Act. However, proposed new s. 61(4) does not specifically refer to an order that the association be wound up, or an order that a receiver or a receiver and manager be appointed. These matters are dealt with by proposed new s. 61(5) and 61(6). Also, proposed new s. 61(4)*(g)* gives the court a general power to make any order that is necessary to resolve the dispute.

Proposed new s. 61(5) states that the Supreme Court may order that the association be wound up or a receiver or a receiver and manager be appointed.

Under proposed new s. 61(6), the Magistrates Court must transfer a proceeding to the Supreme Court if the orders set out in proposed new s. 61(5) would be appropriate.

Under proposed new s. 61(7), the Magistrates Court may transfer a proceeding to the Supreme Court if a complex or important question arises, and it may reserve a question of law for determination by the Supreme Court.

Proposed new s. 61(8) states that where the proceedings are transferred, steps already taken are to be considered as steps taken in the court to which the proceedings are transferred.

Proposed new s. 61 (12) states that the Supreme Court and Magistrates Court may decline to hear a proceeding if it is more appropriate that the proceeding be heard by a different court, or by a tribunal. However, the Magistrates Court may not decline to hear a proceeding on the basis that it considers it would be more appropriate for the Supreme Court to hear the proceeding, and vice versa.

Proposed new s. 61(15) defines conduct that is oppressive or unreasonable, referring specifically to action or proposed action by an association to expel a member.

The Hon. P. HOLLOWAY secured the adjournment of the debate.

NATIVE TITLE (SOUTH AUSTRALIA) (VALIDATION AND CONFIRMATION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 28 June. Page 1359.)

The Hon. NICK XENOPHON: I indicate at the outset that I will be supporting the second reading of this bill but, in its current form, I am not inclined to support the third reading. However, I believe that it raises a number of important and controversial issues. It is a subject that concerns indigenous South Australians in this state, and I think it is important that this bill proceed to the committee stage. In essence, we have some diametrically opposed views of both the government and those opposing the bill in the context of the effect this bill will have on validating existing usages of land.

I have had an opportunity today to speak to members of the Native Title Steering Committee. They have expressed to me a concern that the government has not been willing, or as willing as it ought to be, to negotiate a number of issues. That is obviously something that the Attorney can take up in his reply and during the committee stage. They have indicated to me that the negotiations that they had last Thursday 29 June are the only substantive negotiations they have had with respect to the validation and confirmation legislation rather than the miscellaneous provisions bill that was passed recently.

This debate raises a number of fundamental issues with respect to the rights of indigenous Australians' access to land. It raises the whole issue of the Wik and Mabo decisions and, further, raises the impact of commonwealth legislation in the context of the South Australian scheme.My concern with respect to the government's bill is that, to an appreciable extent in its current form, it would whittle away and abrogate the rights of indigenous Australians with respect to native title. I believe that the Attorney has been sincere and genuine with respect to his intentions in relation to this bill, but my concern is that it will, in its current form, abrogate a number of quite fundamental rights of indigenous Australians.

In the circumstances I think it is important that this bill continue to be debated and that the second reading ought to be supported so that it can be further dissected in the committee stage. I note that the Hon. Sandra Kanck in her contribution on this bill indicated her considerable reservations but, when she made her second reading speech on 5 April, she said that she would support the second reading subject to a number of reservations.

The Hon. Sandra Kanck interjecting:

The Hon. NICK XENOPHON: The Hon. Sandra Kanck indicates that those reservations have not been satisfied and I understand that she will be opposing the second reading. Honourable members who will oppose this bill at the second reading stage should understand that my view is perhaps the view of the Hon. Sandra Kanck, but I believe that the second reading ought to be supported so that the reservations of the Hon. Sandra Kanck can be fleshed out during the committee stage; and I also believe that the Attorney should have the opportunity to respond not only to the second reading debate so that he can respond to a number of concerns but also when there is detailed examination of the bill in the committee stage. For those reasons and with those reservations I support the second reading.

The Hon. K.T. GRIFFIN (Attorney-General): I appreciate that there has been a lot of interest in this bill as well as concern expressed about it. There have also been many indications of support. There has been a lot of misinformation about what it seeks to do, and I think there has also been a lot of nit picking and starting at shadows.

Before we take the second reading vote, I want to respond to some of the issues raised by honourable members in the second reading debate to try to objectively reflect upon the way in which this legislation will impinge upon South Australia and South Australians.

I will deal first with the history. The provisions contained in this bill were first contained in the Statutes Amendment (Native Title) Bill 1998, which I introduced into parliament nearly 21 months ago. That bill lapsed, and in November 1999 I introduced two bills—the Native Title (South Australia) (Miscellaneous) Amendment Bill 1999, which I described as the miscellaneous bill, and the Native Title (South Australia) (Validation and Confirmation) Amendment Bill 1999, which I described as the validation and confir-

mation bill. The miscellaneous bill has now been dealt with in this Council, and I thank honourable members for their support.

I turn now to the purpose of the validation and confirmation bill. The validation provisions deal with some acts carried out in 1994, 1995 and 1996, when it was widely and genuinely believed that native title had already been extinguished over land held under pastoral leases. The confirmation provisions of the bill confirm that certain acts such as freehold grants, and some leases other than pastoral leases granted by the Crown in South Australia since settlement, extinguished native title over land at the time of the grant. The purpose of this legislation is to keep out of the native title claims determination process of the courts people who hold interest in land over which native title has already been extinguished.

With respect to the validation provisions, it was widely believed, after the 1992 Mabo decision, that pastoral leases extinguished native title. However, the High Court's Wik decision in late 1996 stated that it was possible for native title to exist in modified form on pastoral lease land. The validation legislation will validate acts done over pastoral and other lands, when it was widely believed that native title was extinguished. These acts happened with the Native Title Act, which commenced operation on 1 January 1994, and the High Court's Wik decision of 23 December 1996. For the purposes of consideration of the issue, that is called the intermediate period under the commonwealth Native Title Act.

Recognising that native title might exist over pastoral leases, the state government took reasonable precautions during the intermediate period. For example, until the time when the state's right to negotiate mining regimes began (in June 1966), the state issued tenements that only authorised acts that did not affect indigenous rights to access, stay and hunt on pastoral land. South Australia was the first and only state to put a right to negotiate into part 9B of its Mining Act that requires miners to negotiate directly with native title claimants before doing anything that might affect native title.

While the government acted cautiously in the intermediate period, it is possible that some acts that were authorised may have affected native title. As allowed in the Native Title Act, this legislation will make valid any such act. Without validation there is a possibility, in at least some cases, that the acts could be held to be invalid and they might have to be reversed; for example, land or tenements granted may have to be returned. This would create great community and individual hardship and would be an administrative nightmare.

The practical effect of these provisions, among other things, is as follows: no mining leases were granted between 1 January 1994 and 23 December 1996 over pastoral land, and approximately 15 petroleum production licences were granted over pastoral leases in that time. It is the government's view that, where petroleum production licences derive either from exploration licences granted pursuant to the Cooper Basin (Ratification) Act 1975 or petroleum exploration licences granted prior to 1 January 1994, they are past acts and not intermediate acts and have already been validated by the Native Title (South Australia) Act 1994. It is important to recollect that that act provided for validation of certain acts which might otherwise have been invalid. Therefore, the precedent has been set for the legislation now before us.

A total of 168 grants of freehold title over pastoral, reserved or vacant crown land were made during the immediate period. In respect of the grants, 95 were made within the township of Roxby Downs pursuant to the Roxby Downs (Indenture Ratification) Act 1982. As such it is the government's view that these are past acts pursuant to the Native Title Act, not intermediate period acts. This leaves 63 grants of freehold title made in 1994, 1995 and 1996 that are to be validated by the proposed legislation. The number is made up of the following grants: six freehold grants within the township of Andamooka, five in Coober Pedy and one in Kingoonya; 15 freehold grants over land that was previously held under pastoral lease; 14 freehold grants over land that was previously held freehold and another tenure; nine freehold grants over land that was previously held freehold; and nine freehold grants over land that was previously railway land. In addition, there were seven freehold grants over land that was previously held under miscellaneous lease; two freehold grants over land that was previously pastoral lease; two freehold grants over land that was previously used for a police station and house; one freehold grant over land that was previously an ETSA easement; one grant of freehold over land that was previously used for a water main; and one grant of freehold land that was previously a Harbors Board reserve.

The above information shows the cautious approach taken by the government during the intermediate period. It also shows that many of the freehold grants related to land where native title had already been extinguished, for example, by previous freehold grants. Nevertheless, it is necessary and appropriate to ensure the validity of all of these tenures by enacting the validation provisions. Such provisions have been enacted in all other mainland states and the Northern Territory. Native title holders are entitled to compensation for any effect that validating any of these acts would have on native title. The government considers that this is preferable to the possible reversal of grants made in good faith during the intermediate period. All of this information has been provided to the South Australian Native Title Steering Committee.

I turn to the confirmation provisions. There has been a lot of misinformation and misunderstanding about the confirmation provisions. In essence, the Native Title Act contains a list of tenures identified in all states and territories as having already extinguished native title. The government is seeking to do what every other government in mainland Australia, apart from the ACT government, has done, that is, to confirm that perpetual leases in the agricultural areas of the state, along with soldier settlement leases, irrigation leases, miscellaneous leases for particular purposes, shack leases, tramway perpetual leases to the Broken Hill Pty Co. Ltd, and certain other interests extinguish native title.

The list of leases which appears in the schedule to the Native Title Act and which will by this bill be incorporated into state legislation is long and daunting. I doubt that too many people have sat down and looked carefully at it. However, it was prepared by officers of my department in—

The Hon. T. Crothers: You could have given us a list in your contribution. Perhaps we can get that if we go into committee.

The Hon. K.T. GRIFFIN: Yes. However, it was prepared by officers of my department in an exhaustive and, I might say, exhausting exercise and considered in detail by the commonwealth with the assistance of Professor Peter Butt (the then professor of law at the University of Sydney), a well-known property law expert engaged by the commonwealth. The list represents only those tenures granted over land over the past 160 or so years by the Crown in South

Australia where it can be said categorically that the Crown intended and did give the lessee a right of exclusive possession, for example, a crown lease perpetual, marginal land perpetual leases, shack leases, war service perpetual leases and leases for community purposes, for example, scout halls, churches and sport sporting facilities.

In response to the Hon. Mr Crothers, I want to read into *Hansard* information about those different categories. Let me deal first of all with normal perpetual leases. This is background information in relation to certain leases on the schedule of extinguishing tenures. First, I refer to normal perpetual leases. The background is that perpetual leases were introduced in 1888 as one attempt to address problems arising from the early forfeiture of land, due to drought conditions and plague, which had been occupied for farming in regions at and beyond the margins of land suitable for agriculture in the arid north of the state. They provided secure tenure for settlers but with lower payments for occupying the land and greater control over the land by the Crown. They are primarily a tenure over agricultural lands, sometimes combined with grazing in areas which will not support more intensive agriculture. Lands currently held under perpetual lease are used for a variety of purposes and are treated similarly to freehold lands.

I can cite a couple of those which are current. The first is located out of the hundreds of Burra and Orroroo. The purpose is not specified; the size is 40 025 acres; the term is perpetual and commenced on 1 October 1899; and the lessee is a private family. Members of the family of the original lessee retained an interest in the lease from 1899 until July 1983. Another—

The Hon. Sandra Kanck: Nearly as good as 40 000 years.

The Hon. K.T. GRIFFIN: We are not talking about 40 000 years: we are talking about what has or has not extinguished native title.

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: Yes. I will try to give examples for these, because I think it helps to crystallise what we are talking about and what is some of the history in relation to these tenures. Hopefully, it will put members' minds at rest: it may not, because I recognise that some will have pretty fixed views about this, regardless of the evidence that might be presented. But others may be capable of persuasion that this legislation is not the ogre of legislation that some have painted it out to be.

The second normal perpetual lease to which I refer is out of the hundreds of Burra, Orroroo and Olary. The purpose is not specified, but its size is 71 520 hectares. The term is perpetual; it commenced on 1 October 1899; and the lessee is again private. We should note that members of the family of the original lessee retained an interest in the lease again from 1899 until July 1983.

The second category comprises marginal lands perpetual leases. I might say in this regard that there has been some suggestion by the Native Title Steering Committee representatives that, notwithstanding that these leases may be currently occupied and so they are current leases, and notwithstanding the very strong arguments that they have extinguished native title, they should be excluded from the scheduled list of tenures. However, marginal lands perpetual leases have a background of being a form of perpetual lease under the Marginal Lands Act 1940 in South Australia. They were initiated to stabilise the wheat industry by the use of commonwealth funds to acquire small, unprofitable farms in marginal wheat growing areas and then offering the same land as larger more viable properties for grazing and cropping. Generally, they are for agricultural and grazing purposes.

They were granted in respect of land which has been used principally for wheat growing but which, in the minister's opinion, because of inadequate rainfall with or without other causes, is unsuitable for wheat growing as the principal operation carried on thereon. Lands leased under the act were previously held under freehold or perpetual lease and used for wheat farming. The leases issued generally contain limitations on the area cropped and conditions requiring personal residence by the lessees. The leases were tied to the operation of other land holdings, freehold, perpetual leasehold or other marginal leasehold, but not—and I stress not—pastoral leasehold land to be used for the same purposes.

I can give members some examples: there are three of them. The first is in the hundred of Ulyerra, county of Musgrave. It is a marginal lands perpetual lease with personal residence provisions. It comprises 10 421.5 hectares; its term is perpetual; it commenced on 1 July 1952; its lessee is a private person, but there have been a number of transfers of the lease since commencement. The second is in the hundred of Burgoyne, county of Kintore. It is a marginal lands perpetual with personal residence provisions. It comprises 8 145 acres; its term is perpetual; it was granted on 17 September 1943; its lessee is a private person but there have been a number of transfers of the lease since commencement. However, members of one family maintained an interest in the lease between September 1961 and December 1995. The third is in the hundreds of Allen and Kekwick, county of Alfred: it is marginal lands perpetual, again with personal residence provisions, and comprising 7 637 acres. Its term is perpetual; it commenced on 7 December 1950; its lessee is a private person; and it should be noted that members of one family have maintained an interest in this lease since 7 June 1955. They are all currently occupied marginal lands leases.

The third category to which I refer is miscellaneous shack site leases (under section 78B of the Crown Lands Act 1929). The background to these leases is that they were granted under section 78B of the Crown Lands Act 1929 for holiday accommodation or shack site purposes in lieu of expired or surrendered miscellaneous leases granted before 1 January 1984 for holiday accommodation or shack site licences.

The leases may only be granted to the lessee or licensee under the expired or surrendered lease or licence, existing or surviving spouse or putative spouse of such a lessee or licensee or to any such person whose use or enjoyment of the lands has been such that the minister believes they should be granted a lease under the section. Where the lease is granted to a natural person, his or her interest in the lease expires on his or her death. Where it has been granted to a body corporate, the lease expires when the body corporate ceases to exist or on 31 December 1999 (whichever first occurs).

Approximately 1 600 to 1 700 of the 2 189 miscellaneous leases current as at October 1997 are believed to be shack site leases granted under section 78B. These licences were granted across the state. In practice, the areas of the sites leased have generally been the minimum required to accommodate the existing building on the site. That purpose is of such a nature and intensity as to indicate that the lessees are intended to enjoy the exclusive possession of the leased land.

The intent of section 78B was to ensure that sites that were considered unacceptable for shacks and holiday accommoda-

tion for environmental and amenity reasons would cease to be used for those purposes but at the same time would also accommodate the interests and expectations of those who held existing shacks on such sites at the time the policy that shacks should be removed from unacceptable sites was announced.

There are some examples, and I refer, first, to the hundred of Alexandrina, county of Hindmarsh. The purpose is for holiday accommodation; the size is 49 square metres; the term is for the joint lives of the lessees and the survivor of them; it commenced on 1 July 1986; and it expires upon the death of the survivor of the lessees. It should be noted that this is indicative only, as this lease has been surrendered and is no longer current.

The next example is in the hundred of Jenkins, county of Manchester. It is for holiday accommodation purposes; the size is 240 square metres; the term is for the life of the lessee; it commenced on 1 February 1987; and it expires upon the death of the lessee. It should be noted that the information about this lease was obtained several years ago and may no longer be current. The third example is in the hundred of Jenkins, county of Manchester. It is for holiday accommodation purposes; the size is 300 square metres; the term is for the life of the lessee; it commenced on 1 February 1987; and it expires upon the death of the lessee. A cautionary note is that the information about this lease was obtained several years ago and may no longer be current.

The fourth category is war service leases, and the background to these concerns perpetual leases issued under a series of acts introduced to assist returned soldiers to successfully settle agricultural lands. Land acquired for settlement under the various acts for discharged soldiers has mostly consisted of existing farms, small parcels of land excised from larger holdings acquired for closer settlement or specifically for soldier settlement or irrigated blocks in irrigation schemes developed on the Murray River. The land held under irrigation perpetual leases was issued principally for horticulture and lessees were required to cultivate the land.

Settlers under the Discharged Soldiers Settlement Act 1934 were required to reside on the land and, if the lessee was absent from the leased land for more than one month continuously without having notified the minister and without leaving someone else in occupation of the land, or if the lessee intimated the abandonment of the land, then the minister could determine the lease.

There are three examples of these. The first is in the Loxton irrigation area, in the hundred of Gordon, county of Alfred. It is a war service irrigation perpetual lease with personal residence provisions; its size is 28.25 acres; its term is perpetual; it commenced on 12 June 1951; the lessee is a private person who has been lessee since 1973.

The next example is in the hundred of Coles, the county of Robe in the South-East. It is a war service perpetual lease with personal residence provisions; its size is 1 115 acres; its term is perpetual; it commenced on 1 June 1959; and its lessee is private, but it should be noted that there have been a number of lessees since 1959. The third example is in the hundred of Wanilla, county of Flinders on the West Coast. It is a war service perpetual lease with personal residence provisions; the size is 963 acres; its term is perpetual; it commenced on 21 May 1951; its lessee is a private person; there have been a number of lessees since 1951; and the lease has been in the family of the current lessees since July 1982.

The next category is community purposes leases, and I deal, first, with miscellaneous leases. Certain miscellaneous leases shown on the schedule, for example, leases permitting the lessee to use the land or waters covered by the lease solely or primarily for a church, club house, girl guide hall, golf club, lifesaving club, pony club, scout hall, sporting club, etc., are leases for community purposes as characterised in section 23B(2)(c)(vi) of the Native Title Act 1993 of the commonwealth and defined in section 249A. No examples of still current common law leases fitting the definition in section 23B(2)(c)(vi) could be found in the time available, although there must be numerous examples.

The following examples are of miscellaneous leases fitting the description shown on the schedule. The first is located at Woolundunga, south of Quorn. Its purpose is a hostel and camp site; it comprises 2.9 hectares; its term is 10 years, renewed for a further 21 years; it commenced on 1 March 1979; its expiry date is 28 February 2010; and the lessee is the Pichi Richi Railway Preservation Society Incorporated. The other example is at Iron Knob. It is for pony club purposes; the size is 4 900 square metres; the term is 10 years, renewable for a further 12 years; it commenced on 1 January 1980; its expiry is 31 December 2001; and the lessee is the Iron Knob Pony Club Incorporated.

In the same grouping of community purpose leases there are leases under section 35 of the National Parks and Wildlife Act 1972. I will provide some background in respect of these leases. Section 35 enables the minister administering the act to grant leases on appropriate terms and conditions entitling persons to rights of entry, use or occupation in respect of reserves under the act. As at October 1997, there were 39 leases of relatively small areas of land for various purposes, including community purposes, as specified in the schedule of extinguishing tenures in the Native Title Act.

The leases included in the schedule are for purposes that contemplate a nature and intensity of the use and development of the subject land that indicates that the lessees were intending to enjoy the exclusive possession of the land. Section 35 also specifically empowered the minister to grant licences for the entry, use and occupation in respect of reserves, and accordingly distinguishes between leases under which exclusive possession is prima facie intended and licences under which exclusive possession is prima facie not intended.

I will provide a couple of examples of these types of leases. The first is located in the Sturt/Gorge Recreation Park. It is a scout-guide hall and includes a large building and fencing; its terms is for a period of 25 years; it commenced on 1 July 1986; and it expires on 30 June 2011. The lessee is the Scout Association of Australia, South Australian Branch and the Girl Guides Association (South Australia) Incorporated. The second is the Chowilla Game Reserve. Its purpose is the occupation and maintenance of an historical heritage building. It is the Old Customs House. Its term is 25 years, it commenced on 8 April 1993, it expires on 7 April 2018 and its lessee is private.

That is a quick run down of some of the leases which are in the schedule and some of those which are affected by the provisions of the bill, and would be particularly affected if the bill was not passed, or, if passed, with only some of those tenures actually recognised as extinguishing tenures for the purposes of the South Australian legislation. I should say that in the preparation of the list if there was any significant doubt about the extinguishing effect of a tenure it was not included on the list. In general terms the system of land tenure in the

state follows its geography. The colonial era surveyor-general observed that there were severely limited prospects for successful agriculture in the north of the state because of limited rainfall.

Goyder's line of rainfall recorded Goyder's impressions as to the extent north that successful agriculture could reach. In rough terms, Goyder's line of rainfall also marks a sharp distinction in the types of leases issued—south of Goyder's line of rainfall, and pastoral leases issued over the more arid regions in the north of the state. Areas to the south include large parts of the Eyre and Yorke peninsulas, the Mid North and the entire South-East of the state. With very few exceptions, the land subject to tenures included in the schedule is land in these more densely populated areas in the south of the state.

After the bill comes into force native title will still be claimable over more than 80 per cent of the state. It is not correct to suggest, as the Hon. Sandra Kanck did, that the effect of the bill is to extinguish native title over 20 per cent of the state. Approximately 13 per cent of the 20 per cent of non-claimable land is already freehold land. No-one seriously disputes that native title can no longer exist on this land. The schedule applies only to a list of perpetual and miscellaneous leases that make up approximately 7 per cent of South Australia in total.

The confirmation legislation has no application whatsoever to the approximately 42 per cent of South Australia held under pastoral lease. Pastoral leases can already be and will continue to be subject to native title claims in this state. Aboriginal people already have rights to enter, travel across and stay on pastoral leases to follow traditional pursuits, and I have always said, and the government has reiterated, that that is not a matter which is the subject of any change at all, either now or in the future. The right to claim pastoral lease land and ongoing rights of access are not affected in any way by the bill.

Almost 20 per cent of South Australia is held as Aboriginal freehold land under the Pitjantjatjara Land Rights Act 1981, the Maralinga Tjarutja Land Rights Act 1984 and the Aboriginal Lands Trust Act 1966. This is also not affected by the bill. In the unlikely circumstance that any native title is affected by the confirmation provisions of the bill, compensation will be payable. The government expects that in practice no compensation will be payable because no actual extinguishment is being wrought by these provisions. The reality is that the leases on the list native title at the time they were granted (mostly many years ago).

I turn now to the consequences of not passing this bill. Passing confirmation legislation will not, in the government's view, alter the law as to whether native title has been extinguished over these tenures. Native title has already been extinguished. The bill will, however, assure holders of these tenures that they will not have to defend native title claims. It will ensure that the holders of perpetual and other exclusive possession leases do not have to be involved in lengthy and expensive native title cases and wait years for a court to confirm that native title has been extinguished over their properties. It is an appropriate exercise of legislative power for the parliament to confirm that these tenures have extinguished native title, rather than to leave it to the courts to decide this for each particular lease, on a case by case basis, over an extended period of time.

The South Australian Native Title Steering Committee, which represents the Aboriginal Legal Rights Movement, ATSIC, Anangu Pitjantjatjara and Maralinga Tjarutja, has acknowledged that many, probably most, of the leases covered by the confirmation legislation extinguish native title, although they do not concede that enacting this legislation is necessary or desirable. Instead, they contend that it should be left to the courts to decide whether or not native title has been extinguished on a case by case basis.

The courts by their very nature will take years, if not decades, to rule out all these tenures. It is simply not reasonable to put holders of these tenures through the cost and stress of such cases when on any reasonable assessment it is already clear that native title has been extinguished. The objections to the legislation appear to centre on a misunderstanding of the proper role of parliament and the courts in balancing complex public policy issues. It is a proper exercise of legislative power for the parliament to make decisions about complex policy issues such as native title, consistent—and I emphasise 'consistent'—with relevant legal principles.

I want now to deal with the legal authority for compiling the schedule of extinguishing tenures. It is clear from the Wik and Fejo cases that it is the grant of rights wholly inconsistent with the continued existence of native title that will extinguish native title, not whether, in fact, indigenous groups were actually excluded from the land. The schedule is consistent with the principles in these High Court authorities. The recent decision of the majority of the Full Court of the Federal Court in Western Australia against Ward supports the jurisprudential underpinnings of the schedule that it is the grant rather than the use of a tenure that is important in determining extinguishment of native title.

The Hon. T. Crothers: When was that decision handed down?

The Hon. K.T. GRIFFIN: I do not have the date, but it was only recently. I can get the honourable member the detail of that case. It has been suggested that the recent decision of the Full Court of the Federal Court in the New South Wales case of Anderson v. Wilson undermines the basis of the confirmation provisions of the bill. It is said that as a result of what the court said in that case about New South Wales western land grazing leases, South Australia cannot by this legislation merely confirm previous extinguishment of native title. Instead, it is suggested that statutory leases need to be examined on a case by case basis. I reject the suggestion. The lease that was considered in Anderson v. Wilson was a New South Wales western lands lease that was granted solely for grazing purposes. It is similar to the leases that were considered by the High Court in the Wik case. It was contended by the lessees that this lease at common law granted him a right of exclusive possession and as a result extinguished native title.

An honourable member interjecting:

The Hon. K.T. GRIFFIN: I am not contradicting myself. The lessee had to take this argument to the courts in New South Wales because, like the South Australian schedule of extinguishing tenures, grazing leases are excluded from the New South Wales schedule. The New South Wales statutory provisions that confirm the extinguishment of native title by previous exclusive possession acts did not and could not apply.

The western lands leases of New South Wales, the type of lease in Anderson v. Wilson, are an example of the type of lease that the commonwealth would not place on the schedule because it was considered too doubtful that leases of this kind necessarily conferred a right of exclusive possession and could be sure of having extinguished native title. Although the court considered it unnecessary to decide the specific

question of extinguishment in this instance, it applied the principles of extinguishment laid down by the High Court in the Wik decision. In that case, the High Court held that pastoral and grazing activities are not necessarily inconsistent with native title.

The principles that the High Court handed down in both Mabo and Wik were the same principles that informed the process of the compilation of South Australia's schedule of extinguishing tenures. On that basis, tenures authorising only pastoral and grazing activities, like the Anderson v. Wilson lease, were excluded from the list. That is reflected on the face of the list. One has only to look at it to see that the list explicitly excludes leases that permit the lessee to use the land or water solely or primarily for grazing or pastoral purposes. The list also explicitly excludes leases that do not permit the lessee to use the land solely or primarily for agriculture, horticulture, cultivation or a similar purpose.

Consistent with the High Court principles, the tenures that were included in the schedule are of a type that grant rights of exclusive possession to the lessee or, in the language of the Anderson v. Wilson decision, rights that are inconsistent with any and all of the rights or interest that together make up such native title rights as may exist over the land. The High Court has held that tenures such as these extinguish native title at common law at the time they are granted.

It has been suggested that Anderson v. Wilson is authority to question whether the grant of a right of exclusive possession extinguishes native title. I also reject that suggestion outright. As mentioned earlier, the court in Anderson v. Wilson states that it was applying the principles that were applied in Wik. In that case, the judges of the High Court criticised the focus on exclusive possession as being the only facet of an inquiry into extinguishment. It was quite clear, however, that were they to have found that exclusive possession was granted by the pastoral leases concerned, this would have resulted in the extinguishment of native title rights and interest as it is necessarily wholly inconsistent with the continued existence of native title. That conclusion not only follows Mabo but was confirmed in Fejo. There is nothing in the judgment of Anderson v. Wilson that would provide any basis to question what is now a widely accepted result of the existing High Court authority.

I turn now to the process of compiling the schedule. The schedule was compiled and has been publicly available for over 2½ years. The government made a public submission on the schedule to the Commonwealth Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund in 1997. That submission has been provided to the South Australian Native Title Steering Committee and it is available for scrutiny. It might be appropriate if I seek leave to table a copy of that submission and also an extract from the commonwealth's explanatory memorandum to the Native Title Amendment Bill 1997, which illustrates how strict the process was in deciding which tenures could be included in the schedule. I seek leave to table those two documents.

Leave granted.

The Hon. K.T. GRIFFIN: The explanatory memorandum provides:

Compilation of the schedule.

36.22 The schedule contains historic (that is, no longer in effect) and currently leases which the government considers, on the basis of the common law, have conferred exclusive possession and have therefore extinguished native title.

36.23 In determining whether any particular lease should be included in the schedule, the relevant state or territory and the commonwealth have principally had regard to the substantive rights and obligations of the grantee under the relevant legislation. If it could be said with reasonable certainty that by reason of those rights and obligations the lease conferred exclusive possession on the grantee, then the lease has been included in the schedule. If there was significant doubt about a particular lease, it was not included in the schedule.

Relevant factors.

36.24 Regard was had to a variety of factors in the relevant legislation and to a number of other factors in relation to the lease such as its purpose and size. These factors are noted below. These are factors that the High Court had regard to in the Wik decision.

36.25 However, as evidenced by the varying majority judgments in Wik, no one particular factor was decisive of, or necessarily carried more weight in determining, whether any particular lease conferred a right of exclusive possession.

36.26 It may be that in the future the courts will examine other general or specific factors in determining whether or not exclusive possession has been conferred in relation to a lease. Clearly, however, it was not appropriate at this time to attempt to speculate on what these factors may be.

36.27 As far as possible, given the different history, legislation, regulation and practices in the various states and territories, a consistent approach has been taken to each jurisdiction.

The factors listed in the explanatory memorandum are terms and conditions, rights of third parties, obligations conferred and restrictions imposed on the grantee, capacity to upgrade, purpose, history, location and size. The explanatory memorandum goes on to note:

36.37 The terms of each lease instrument granted under the provisions referred to in the schedule were not considered. Rather, the leases contained in the schedule are leases which, without needing to have recourse to the terms of the lease instruments themselves, it can be said with reasonable certainty conferred a right of exclusive possession on the grantee. If there was significant doubt about whether a particular lease conferred a right of exclusive possession, it was not included in the schedule.

36.38 It is clear from a majority of the judgments in Wik that native title is extinguished by the grant, rather than the exercise, of a right or interest in land which is inconsistent with the continued existence of native title. Accordingly, in determining whether any particular lease should be included in the schedule, it was not relevant to have regard to what activities are in fact being undertaken on the land subject to the lease.

36.39 No one particular factor can be determinative of whether a lease conferred a right of exclusive possession on the grantee. This was evident from the complex and differing judgments of the High Court justices in Wik. Accordingly, the schedule was prepared examining a spectrum of factors in relation to each particular lease. Some factors that were relevant to some leases included in the schedule were irrelevant to other leases included in the schedule. A lease was included in the schedule when the relevant factors, considered as a whole, indicated that the lease conferred a right of exclusive possession.

I have omitted the numerous references to the relevant pages of the Wik decision in the extract to which I have referred. I encourage honourable members to peruse this extract. It highlights the close, careful and considered adherence to High Court authority in compiling the schedule.

Over many months the government has repeatedly offered to consider submissions if Aboriginal groups or others believe that any particular leases on the list of extinguishing tenures did not grant exclusive possession and did not extinguish native title. The first concrete examples were given to me by the steering committee at a meeting on Thursday 29 June 2000.

The steering committee wishes to see leases excluded from the schedule based on just one factor, such as size, length of grant or rights of third parties. The issues of length of grant, size of grant and rights of third parties have already been taken into account as relevant factors in compiling the schedule, as I have explained. It is not appropriate, however, to consider any of these factors on their own as determinative

factors. To do so would result in arbitrary and capricious outcomes.

As to the consultation process, the state government has consulted extensively about the bill. These provisions are exactly the same as the provisions that were contained in the bill introduced in parliament in December 1998, over 18 months ago, and consultation has continued since that time. The government has met with the South Australian Native Title Steering Committee and others representing indigenous perspectives to discuss the legislation. The South Australian Native Title Steering Committee has also made a number of written submissions that have been discussed with the government. The consultation process has been a genuine one.

A compromise has been discussed. It became apparent during the consultation process that the steering committee was particularly concerned about historical leases on the schedule that underlie land that is currently pastoral land and subject to native title claim. In response to concerns raised by the steering committee, I offered to restrict the confirmation provisions at this stage to tenures on the schedule that were current as at 23 December 1996.

The steering committee was also concerned about tenures on the schedule that may contain reservations in favour of Aboriginal people. I also offered to exclude any such tenures on the schedule from the confirmation provisions. The government's offer to exclude historical tenures from the schedule for the moment did not reflect any change in its view that the grant of all South Australian leases included on the schedule extinguished native title at the time of the grant. It was made to allow more information to be gathered on how many historical tenures lie beneath current pastoral leases and will affect current native title claims over those leases.

Had that compromise been proceeded with, I would still have sought to negotiate with all stakeholders about historical tenures and, hopefully, to confirm the extinguishing nature of those historical leases at a later time. Unfortunately, the steering committee has not accepted the government's offer. I find this disappointing. The government's proposed compromise was made in good faith in an attempt to allay concerns about the effect of such provisions pending further information being obtained.

Clearly, neither the government nor industry groups can afford to leave the confirmation of the extinguishing effect of all the perpetual and other leases in the schedule to the courts. That would just lead to huge amounts of money being spent over many years on court cases by all parties, when this money could be better used to deliver real benefits to the community.

I have previously referred, on numerous occasions, to the government's desire to avoid litigation wherever possible. We recognise, and members here would have heard me say it, perhaps with monotonous regularity, that taking to litigation all the 26 claims that are current will undoubtedly cost tens of millions of dollars. We made an estimate from the government's point of view that our costs alone could be at least $5 million per claim, and then one has to add to that the costs of the claimants as well as the costs of other interested parties. That money could be put to better use.

What we have indicated is that we are prepared to take advantage of the indigenous land use agreement opportunities that the commonwealth Native Title Act provides and, as we have done, enter into genuine negotiation and consultation with native title claimants and their representatives, with the Farmers Federation (particularly with their interest in pastoral interests) and with the Chamber of Mines and Energy (which has particularly the interests of explorers and miners).

So far, the consultation process has been developing, albeit somewhat slowly, nevertheless steadily and positively. I am optimistic that, regardless of what happens with this bill, at least those negotiations can continue so that we get a beneficial outcome for native title claimants as well as for the rest of the South Australian community. Whilst there is a lot more that I can say about this bill, and if the bill gets into committee I would want to do so and open it up for genuine discussion at the committee stage between members of the Legislative Council, I am still willing to move or accept amendments reflecting the government's proposed compromise on this bill when the bill is debated at the committee stage.

If there are other issues that members or others wish to raise, they should do so, but the concern that the government has in relation to this bill is that next week is the end of the parliamentary session and this issue, after nearly two years, should be resolved. I urge members to give serious consideration to the consequences for leaseholders, the holders of leases on the schedule, if the bill is not passed, and also to recognise that the interests of indigenous South Australians will not be prejudiced by taking this course of action. The opportunities that will be presented in the committee stage, if the bill gets that far, will I hope be positive and constructive.

The PRESIDENT: The question is that this bill be now read a second time. Those for that question say—

The Hon. T. CROTHERS: I want to ask whether I am now in order to speak to the question that the bill be now read a second time.

The PRESIDENT: No, sorry—

The Hon. T. CROTHERS: I will then have to vote the matter down.

The PRESIDENT: Just in explanation, the Hon. Mr Crothers, every member is given one opportunity to speak.

Members interjecting:

The Hon. K.T. GRIFFIN: If the honourable member was going to support the second reading and wants to explain why, I would somehow like to give him the opportunity to do so.

Members interjecting:

The PRESIDENT: Yes, but that comes at the end of a long sequence of members having the opportunity to speak once. When the minister obviously is concluding the debate, the motion that I am putting is mandatory. It is not a debatable question. If the honourable Attorney can find a way round—

The Hon. K.T. GRIFFIN: I will seek leave to conclude my remarks, if we are going to have a problem about it.

Members interjecting:

The Hon. K.T. GRIFFIN: I seek leave to conclude my remarks.

The Hon. T. CROTHERS: On a point of order, you had already put the question that the bill be now read a second time. If the Attorney wishes to speak again, he is speaking twice in his winding up speech, just as it was held that I was speaking twice, and my point of order is that your having raised the question that the bill be now read a second time, and that being accepted by the Council, then that is the question that we have to address, with all due respect to the Attorney.

The PRESIDENT: With respect, and I can check it by *Hansard*, I do not believe that I asked for a vote. I had

certainly put the question. I recognised the Hon. Mr Crothers standing, so I asked him whether he had a point of order. I had not put the question. I had asked for the question but had not said 'those for aye say aye.' I had not got to that point.

The Hon. T. CROTHERS: You moved that the question be read a second time. I rose to ask you if, because in my view it was a different question than talking to the second reading of the bill, I could at this stage rise to speak. You said I could not, and I sat down. But with respect, you had already put the question that the bill be now read a second time.

The PRESIDENT: I had certainly uttered the words 'that the bill be read a second time'. I now put the question that the bill be read a second time.

The Council divided on the second reading:

AYES (9)

Davis, L. H.	Dawkins, J. S. L.
Griffin, K. T. (teller)	Laidlaw, D. V.
Lawson, R. D.	Lucas, R. I.
Schaefer, C. V.	Stefani, J. F.
Xenophon, N.	

NOES (10)

Cameron, T. G.	Crothers, T.
Elliott, M. J.	Holloway, P.
Kanck, S. M.	Pickles, C. A.
Roberts, R. R.	Roberts, T. G. (teller)
Weatherill, G.	Zollo, C.

PAIR

Redford, A. J.	Gilfillan, I.

Majority of 1 for the Noes.

Second Reading thus negatived.

LISTENING DEVICES (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 July. Page 1436.)

The Hon. K.T. GRIFFIN (Attorney-General): I thank honourable members for their contribution to the second reading debate. The Hon. Terry Cameron has asked me to address the question of innocent parties who might be caught on video or audio tape but have no relation to the investigation and, in particular, the protection that those people have. Before outlining the protection that the bill offers to all people, whether innocent or allegedly involved in serious criminal activity, recorded on video, audio or videotape, I should clarify the current law with respect to the use of video surveillance and tracking devices, and the amendments to be made by the bill.

It is not illegal to use video surveillance or a tracking device. Therefore, the police can currently use video cameras and tracking devices for the purpose of surveillance, and that will not be changed by the bill. However, the current difficulty is that the police cannot lawfully install such devices on private property without the consent of the owner or occupier of that property and, of course, most criminal activity occurs on private property. The bill amends the Listening Devices Act so that the police can get authority from a Supreme Court judge to install the visual surveillance or tracking device on private property. The bill does not alter the fact that it is lawful to use visual surveillance or a tracking device.

I will now deal with the honourable member's issue. It is inevitable that, by allowing the police to use electronic surveillance devices, innocent persons will also be captured on the audio or videotapes. The fact is that the target of the surveillance will interact with innocent people as well as those involved in criminal activity. Therefore, if it is accepted that electronic surveillance can be used—which this jurisdiction already does—then it is unavoidable that innocent people will be affected. However, this is not the first jurisdiction to accept that the public interest in bringing serious offenders to justice, through the use of surveillance devices, outweighs the public interest in ensuring that the privacy of innocent persons is not subject to intrusion.

All Australian jurisdictions—and many overseas jurisdictions—to some extent sanction police use of electronic surveillance to combat crime. It is a question of balance. The innocent, and those suspected of serious illegal activity, are afforded the same protection under the act and the bill. The key provisions in the bill that provide protection are as follows. Where a listening device is illegally used, it is an offence to communicate information derived from the recorded conversation to a third party unless all parties to the conversation consent or the information is communicated in the course of investigations or proceedings involving the offence of illegally using a listening device or illegally communicating information derived by those means. The offence is punishable by a maximum fine of $10 000 or imprisonment for up to two years.

When an application is made for a warrant to use a listening device or to install a visual surveillance or tracking device, the Supreme Court judge must consider the extent to which the privacy of a person, being any person who may be recorded—including innocent persons—would be likely to be interfered with. Material obtained by the use of a surveillance device in connection with a warrant to use or install the device must not be communicated, except in limited circumstances, including for a relevant investigation or proceedings. Investigation of this provision is an offence punishable by a maximum fine of $10 000 or up to two years imprisonment.

In the annual report, the Commissioner of Police will be required to provide a general description of the uses made of information obtained by the use of a listening device or surveillance device in accordance with a warrant or in other prescribed lawful circumstance. The annual report will also need to have a general description of the communication of the information obtained to persons other than members of the police force. This is a means of ensuring police accountability in its use of information obtained by use of electronic surveillance, which in turn provides some protection to innocent parties recorded by surveillance devices.

The bill inserts a provision that allows the Governor to make regulations dealing with the control, access to and destruction of records, information and material collected in accordance with the act. In the pursuit of information and evidence to bring serious offenders to justice, the police are already using listening and visual surveillance devices. As a result, innocent people are being recorded in the course of such surveillance. This bill simply fixes some of the difficulties currently faced by police in their attempt to effectively use these devices.

It is important to recognise that to date there is no evidence that the police are improperly using the information obtained through the use of listening devices, nor is there evidence that innocent people have been unjustly affected. Again, I thank honourable members for their indications of support on the basis that, if the bill passes the second reading, we will deal with the committee stage later.

Bill read a second time.

NATIONAL PARKS AND WILDLIFE (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 30 May. Page 1177.)

The Hon. M.J. ELLIOTT: This bill has been before the parliament for a relatively short period of time. I fail to see a great deal of urgency in relation to its passage, particularly in relation to amendments to section 51(A) relating to the culling of native animals. This parliament has provided terms of reference to the Environment, Resources and Development Committee to examine the interaction of native animals and agriculture, and to bring back a report to this place. That instruction was given to the committee prior to this bill being introduced into parliament. I believe it would be inappropriate for this parliament to vote on legislation that is not urgent and whilst awaiting a report from the committee, otherwise the whole reference would be a waste of time.

A great deal of very interesting evidence is being presented to the committee, and I am extremely confident that the committee will come up with a recommendation that will have all party support. In the circumstances, I believe it would be wise if we waited for the committee to report before we proceed with this bill. There is no question that there is a great deal of concern about proposed new section 51(A). I think honourable members would acknowledge that fruit growers face a real problem and, as is often the case, there is usually more than one solution—or a subtle variation of a solution—that will make it more acceptable.

I suspect that the ERD committee will support section 51(A), which involves culling, but it may recommend including some protection within it to benefit fruit growers. I make that comment after hearing submissions from a wide range of groups, and not just animal welfare groups. We have already had witnesses representing fruit growing bodies, including apple and pear growers, together with significant scientific evidence from the department and a university lecturer. I feel confident that there is a way through and, although I am repeating myself, I say it is not urgent. I do not believe there will be applications for culling particularly in the Adelaide Hills for a couple of months, because there is no fruit at this time and therefore no problem of birds eating fruit.

Accordingly, I would urge members to consider one of two possibilities: either delay the bill or, at the very least, not pass new section 51A until the committee has had a chance to report to this place. I am confident that we will be in a position to report when parliament resumes. I am not sure that there is much more evidence to come. I suspect there may be only one more week of evidence and then the committee can start looking at writing a report. That is my best judgment as to where things are. There might be perhaps two meetings, at the most. I do not expect that the report will be very long—certainly nothing in the league of the report on the EPA or a number of other reports of recent times—because it is focused pretty clearly on one issue, although quite a complex one.

An example of complexity is a recognition that something might be a nuisance but in killing it you create new problems. The musk lorikeet feeds upon apples and is becoming a pest for horticulturalists. It also appears to enjoy eating lerps. Lerps is a parasitic insect which attacks eucalypts and can cause extensive damage. I am told that the frequency and severity of lerps outbreaks has been much greater in recent years. I can say from experience that I have seen a couple of trees in my own yard attacked by lerps, and the tree turns into a grey, sticky mass as the insects start drawing out sap and exuding it. The trees have recovered in each case, but it is thought that, although they recover, if they are attacked with increasing frequency and severity, greater damage can be done. That is one example of how, in tackling one problem, you sometimes create another problem.

There may be all sorts of creative solutions, some short term and some long term. One proposed long-term solution is a recognition that lorikeets are, by preference, nectar feeders, but during autumn there seems to be a shortage of the eucalypts that they feed on—I recall that eucalyptus mycrophylla is their preferred eucalypt. One suggestion is that that eucalypt might be considered for use in any revegetation program and that it not be planted too close to orchards, in the hope that birds might be attracted to it.

Although that is a longer term solution, there was a range of short term solutions offered, including, I think, far more complex solutions—I am not sure whether 'complex' is the right word—or structured management programs on properties. In fact, one suggestion made today, as I recall, was that perhaps some people who are now getting their plans working are managing to move the lorikeets from their properties, and those people who have noticed increasing severity might be the victims of the efficiency of other horticulturalists and perhaps of the fact that they do not have the same sort of program in place.

There seems to be a great deal of agreement that nowhere near enough work is being done on the science of the interaction of native animals with agriculture generally. I think probably the only exception I can think of relates to kangaroos, where there has been an extensive scientific program for decades looking at and recommending population sizes and what size cull is necessary and sustainable. We could have arguments about what 'necessary' and 'sustainable' mean but I will not go into that now. But regardless of some of the moral arguments and other arguments that might be put, at least there is some science behind what is happening, although it is a science which concentrates purely upon numbers and does not look sufficiently at other techniques for controlling kangaroo populations other than culling, or other ways of tackling the damage that is done.

I do not pretend that the committee will come up with a definitive answer, but I do believe that it will come up with something which will work for horticulturalists and which, at the end of the day, will leave many people who are concerned about native bird populations and about animal welfare issues somewhat more relaxed than they are currently. I have certainly been concerned about the reports in the media and elsewhere that, at this stage, the government does not really know what the size of the culls are. A figure of 40 000 has been suggested, but departmental officers seem to be suggesting—and I seem to recall this from the *Advertiser*—that it is quite likely more than that. In fact, 40 000 parrots have been shot in the Adelaide Hills, and the government officers acknowledge at this stage that they really do not know the size of the populations of these birds.

If we do not know the true size of the culls, we do not know the true size of the populations. Clearly, some work needs to be done, and it needs to be done as a matter of urgency. It is all too easy for assumptions to be made about how big a population is, but without proper science you might get it dearly wrong. We have only to look at the recent collapse of a North Atlantic fishery. I forget the name of the

species, but it was the most important fish being fished on the Great Banks. Year after year the fishermen went there and for year after year they had the same size catch. They went back the next year and the fishery had totally disappeared. The scientists then found out that their sampling techniques were somewhat defective.

They had been going to the fishing spot, but what they did not realise was that the population was spread over a much bigger area and each year the population area was shrinking, but the density remained the same in the area they were sampling. They were making assumptions that the population was the same, but the place where the fishermen were going was the preferred place for the fish, if they could get there. Suddenly, they went from what seemed to be a stable fishery one year to no fish the next year. It is questionable whether that fishery will ever be revived, and it was the biggest fishery in the North Atlantic. Some people might remember seeing on television Canadian gun boats trying to escort European boats away from the area in the vain hope that the fishery might eventually revive and the European fishermen trying to catch the last ones. Obviously, they were trying to protect their livelihoods.

The point is that this was a prolific fishery, a fishery that had been fished for hundreds of years—the Vikings got among it—yet they still did not see the population collapse coming. I recommend members get hold of a book known as *Auk, Dodo, Oryx*. I managed to get the library to obtain it for me some years ago, so there are a few copies in Australia, but not very many. This book is a litany of species that appeared to be perfectly safe but disappeared in a very short period. Two species stick in my memory, and one is the passenger pigeon. The passenger pigeon existed in flocks containing literally tens of millions of birds. Apparently, when they flew overhead it went dark, almost as dark as night. The flocks were several kilometres long, several kilometres wide, there were several birds per cubic metre and they were stacked up metres high. It was literally like a dark cloud going overhead.

I recall reading that sometimes it took two hours for one of these flocks to fly overhead: they were huge. That bird went from a status such as that to being extinct, as I recall, in about 10 to 15 years. It was the most amazing collapse of a population ever. That is an extreme example but it does show that, if you are not very careful, something that looks to be very safe can disappear rapidly. While I am telling stories of bird species disappearing, the other classic example I recall is the auk. The auk was the northern hemisphere version of the penguin. It was a flightless bird, black and white. They used to live throughout the northern hemisphere, but being flightless they were easy to hunt. They got wiped out in Europe in the cavemen days. They did not last too long: the cavemen found them to be a pretty easy lunch.

They continued to exist on many islands in the North Atlantic, but the fishermen—in fact, the same fishermen who hundreds of years earlier were fishing the fisheries of the Great Banks—used to stop off at the islands and knock a few of these on the head for fresh meat on their long fishing trips. It was in the days when science was a bit primitive. Eventually, they knocked the population back so that there were, as I understand, 400 or 500 left. However, they made a major mistake, although it seemed like a good idea at the time. The reason for their survival was that they lived on an island surrounded by steep cliffs which boats could not enter. They were doing quite well, but unfortunately the island was volcanic and it blew up. As I understand it, about 10 or 20 of these auks got to another island and then the museums of the world discovered that auks were rare and offered bounties. So the last auks were captured, killed and stuffed and now sit in museum cases. That is that way in which science used to view things; that is, as long as you had one stuffed in a case, you were doing all right.

The Hon. Caroline Schaefer interjecting:

The Hon. M.J. ELLIOTT: I do not know whether they will ever get the DNA, but you never know. That example is probably a little tangential to this bill, but I do think that the passenger pigeon example illustrates that you do have to show great caution with populations and that any species that might seem to be in no danger at all can disappear very rapidly without adequate science. It does worry me that in South Australia we are now just about allowing the carte blanche culling of several species. This may be for good reason in terms of the impact on some orchards. I understand those concerns and that we have to do something to minimise the damage, but the fact that it is being done in ignorance of the actual size of the cull and the actual population sizes and an inability then to monitor that year by year is of great concern.

It is worth noting that, when you do apply science, you can get populations to work properly. The reverse of what we are seeing here is where you try to encourage population growth. When the government decided to use science to study the southern rock lobster, it could work out the appropriate culling rate—and in this case it was culling for catch—that would allow a population to remain stable. In fact, in this particular case, it set about growing the population and it has been highly successful, because they have had their best catches in many decades. With appropriate science you can manage populations. The view to management in relation to lorikeets might differ slightly from the management of the southern rock lobster, but the point is that science does enable us to achieve the end result that we set out to achieve.

At this stage I have focused very much on section 51(A), and that is because it is the one that causes me the greatest concern as it currently stands. I would ask this chamber to wait until the ERD Committee reports. In relation to other matters, the government is seeking to collect royalties. At present, it collects royalties only in relation to the great kangaroos. Now it is seeking to change the act to introduce fees for taking animals from the wild—$25 for animals, as I understand—and also additional fees for the keeping of animals. I put on the record at this stage that there have been a great number of complaints in the past about the administration of permits for taking and keeping animals. Whilst there are two sides to any story, I have had a number of allegations made to me by people who have claimed to have rescued animals and then, having rehabilitated them in a physical sense (because many wild animals cannot be rehabilitated to return to the wild), the department has insisted that they hand them in and then it sells them. That issue has been raised with me many times.

Another issue addressed by the bill is molestation, and clearly we have to do something about that. There have been concerns for quite some time now about the molestation of whales, and I think our laws are not too bad in relation to that. Recently there have been a couple of very concerning cases regarding the molestation of penguins. The extreme act of killing penguins has occurred near Victor Harbor recently: people poke sticks down burrows to get penguins to come out, and sometimes far worse than that occurs. I think that everybody would agree that those laws need to be tightened.

There is a minor change to the name of the Reserve Development Trust, with all money now going into a general reserve trust, whereas previously Martindale and Bookmark had separate trusts. This is an administrative change to make legislation fit practice. There is a move to allow one, three and five year licences and to issue plastic cards, and that seems to be aimed primarily at reducing the administrative load.

There may be a case for going beyond one year. I am uncertain of the ramifications of having long-term licences. For instance, if people were holding five year duck shooting licences and for several years the government closed the season—and many people believe that it should be closed permanently—it would create a great deal of concern in the community. People would say, 'I paid for five years and now I am being denied the right.' However, I am not advocating that we should have five year licences and a duck season every year. Members would know that I have advocated that duck shooting should cease. I am concerned about the pressure that could be brought to bear by thousands of people holding five year duck shooting licences. I think that would be most inappropriate, and also because of the need to close seasons.

Wardens will be given power to allow DNA sampling and the taking of blood on the verbal authority of the director, which must be verified in writing. It also allows video and audio evidence and allows wardens not to comply with molestation laws when an animal is in need. I guess the implication there is that, if an animal needs to be handled in some way which would imply molestation, wardens would be able to do so and not be subject to any form of prosecution.

Statements can now be taken by email, as long as there is an appropriate verification process. I would ask the minister to address how precisely one would verify the authenticity of a statement taken by email. I know there are certificates, but I doubt that most people have them. I seek some comment from the minister on that matter.

The only person who can call for a review is a person who has had a permit refused; no other group can appeal. I am concerned that sometimes there are matters where third parties have a legitimate interest, but there is a tendency for this government to deny third party rights. In many cases that causes me concern.

The last thing I intend to comment on is the threatened species schedules. I was intrigued to see that in these categories 16 mammals have been given a lower rating—in other words, they are considered to be at less risk than they were previously—and 18 birds have been given a lower rating; yet no mammals or birds have moved into a higher rating. That is a surprise to me and seems to be contrary to what one would expect when one realises that the level of native vegetation has been in marked decline. In places such as the Mount Lofty Ranges, we are down to about 3 per cent and 4 per cent remnant vegetation. I wonder whether the government or its officers have been sufficiently careful about this.

I reiterate that populations and their stability can be very deceptive and can easily collapse, and that one does not always pick up that a species is at risk. An interesting article was written recently by Professor Hugh Possingham from the University of Adelaide. He looked at the level of the extinction of birds in the Mount Lofty Ranges and noted that very few birds endemic to the Mount Lofty Ranges had become extinct—far fewer than anybody would have expected. He went on to explain that he thought that what we have is a delay at work, that the basic problem we have is that we are down to 3 per cent or 4 per cent of native vegetation, which is in pockets, and what is happening is that the bird populations resident in those pockets could be subject to quite dramatic collapse because there is not much movement between the pockets.

That is one of the reasons why many people for a long time have argued that we need not only national parks but wildlife corridors upon which animals can move. The importance of the corridors is that, by the movement of animals, one maintains the genetic diversity of populations. When you get very small populations, lack of genetic diversity can cause them to collapse. As I understand it, that has been speculated as one of the reasons why the Aboriginals on Kangaroo Island disappeared a couple of hundred years ago. I am not sure of the exact time frame—

The Hon. Ian Gilfillan: About 4 000 years.

The Hon. M.J. ELLIOTT: Some 4 000 years ago. Aboriginals did live there but suddenly disappeared. The population of hunters and gatherers on a small island such as that would have been very small, particularly with the resource base they had. Over time, they probably suffered a narrowing of genetic diversity, which eventually would have put the population at great risk, and is a likely explanation for their disappearance. Small populations are always at risk of that sort of collapse.

As I understand Professor Possingham, he argues that we might go another 10, 15 or 20 years and suddenly see a large number of species disappear; that the seeds for their demise have already been sewn in terms of vegetation clearance and the creation of separate pockets of vegetation, but that it will take some time for their actual demise. But then the extinction rate could pick up. That is one of the reasons why I say that we have to be very careful when we start listing animals in the schedules and determining what category of protection they are likely to enjoy, and whether they will be itemised as rare, endangered or the third category (which escapes me).

As I said, it is surprising that the government feels that it is in a position to change the ratings in the way that it has. In fact, no species is considered to be more at risk than it was previously and a large number have been considered to be at less risk, particularly since we know that the level of science that is going on at this stage into those populations is so low.

The Department of Environment is running on a shoestring, and the number of researchers out of universities operating in the area is very small and just not capable of really doing the level of assessment that is being done. So having expressed some concerns and agreement also with some components of this bill the Democrats are prepared to support the second reading.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

SOUTH AUSTRALIAN FORESTRY CORPORATION BILL

Adjourned debate on second reading.

(Continued from 31 May. Page 1209.)

The Hon. K.T. GRIFFIN (Attorney-General): I thank honourable members for their indications of support for the bill. There are two issues that I need to address at this stage, and we can deal with the remainder in committee. There is

an amendment proposed by the Hon. Paul Holloway. It is exactly the same as the unsuccessful amendment moved by the member for Napier in the House of Assembly on 3 May. The proposed amendment seeks to ensure that future employees will not be discriminated against by the offering of wages and conditions substantially below the existing wages and conditions of current employees. Clause 4(2) of the transitions provisions in schedule 1 of the bill guarantees that existing Forestry SA employees retain the same terms and conditions of employment which they would have had if the agency had remained as part of the Department of Administrative and Information Services.

The proposed corporation is to be established as a government business enterprise. Forestry SA has experienced difficulty in recruiting suitably skilled staff into professional business related positions in the South-East, in particular in information technology, accounting and marketing. The proposed amendment would restrict the corporation from offering negotiated terms and conditions above those defined in the existing industrial prescriptions to attract and retain new employees in its new operations.

During the House of Assembly debate Mr Clarke referred to a commitment by the Premier prior to the last state election that the government would not introduce Australian Workplace Agreements for public sector workers. I confirm the commitment that as long as collective agreements continue to provide flexibility and meet the needs of the government there is no need to introduce individual workplace agreements.

The Hon. Mr Gilfillan identified a number of issues. One of those related to community service obligations. All functions, including non-commercial, currently carried out by Forestry SA will transfer to the corporation. Exact details of the community service obligations are currently under negotiation between Forestry SA, the Office for Government Enterprises and the Department of Treasury and Finance.

Some of the activities expected to be funded as community service obligations include native forest management activities, such as weed and vermin control, signage and fencing ensuring appropriate public usage and plant and animal protection, community use of forest reserves, such as managing the public use of forest reserves for a range of recreational activities ranging from bushwalking, horse riding, camping and motor vehicle events, and forestry industry development activities such as research on eucalyptus and marginal lands, industry information and education and technical advice to growers. Currently, Forestry SA is not compensated for the cost of its non-commercial activities which are cross-subsidised from commercial activities within Forestry SA.

When Forestry SA is corporatised CSOs will be identified and funded separately. Forestry SA has budgeted for revenue of $101 million in 2000-2001. It is expected that the value of the CSOs will not exceed 5 per cent of Forestry SA's total revenue. By comparison, the budget for CSOs for SA Water in 2000-01 is $86 million, which is approximately 14 per cent of SA Water's total revenue of $603 million. The main community service obligation for SA Water is to ensure that country customers pay the same rates as metropolitan customers, commonly referred to as statewide pricing of water supply services. If there are any other issues that I have not touched we can deal with them in committee.

Bill read a second time.

FOREST PROPERTY BILL

Adjourned debate on second reading.

(Continued from 31 May. Page 1230.)

The Hon. K.T. GRIFFIN (Attorney-General): I thank honourable members for their indications of support for the second reading of the bill. The Hon. Paul Holloway has made some comments about registration of forest property agreements under this legislation. While parties would be actively encouraged to register their forest property agreements to obtain the maximum benefits from this legislative initiative, the decision as to whether or not such agreements are registered should remain with the parties concerned rather than be made mandatory. In this regard clause 4 provides for the creation of a forest property agreement between a landowner and the person growing the forest property, which the parties can choose to enter into without necessarily registering the same.

Provided that the agreement meets the minimum requirement set out in clause 4, the agreement would still have certain legal status in terms of this legislation, even if the parties chose not to register that agreement. Clearly it would be in their best interests to do so. However, some parties may have valid reasons for not wishing to formally register their agreement. Others may choose not to register their agreements immediately and, by providing for both registered and unregistered agreements in the legislation, it effectively ensures at least some legal recognition of unregistered agreements rather than none at all under a mandatory approach. Unlike a licensing system, the basis of this legislation is to provide opportunities and flexibility for forestry investors to choose from rather than any mandated requirements.

The Hon. Mr Gilfillan has indicated his intention to oppose clause 15 (part 3, commercial forest plantation licence). His opposition to clause 15 is based on his interpretation of this clause conferring unwarranted powers and rights over other state law, or at least that is what the honourable member believes that it does. The Hon. Mr Gilfillan has misinterpreted clause 15, including what is authorised when a commercial forest plantation licence is granted under this part.

The intention of part 3 is to provide a secure right to harvest with respect to commercial forest plantations, not a general exemption from applicable state laws. Although a licence issued under this part will enable a commercial forest plantation to be harvested without further authorisation, consent or approval, the licence under these provisions does not exclude the holder from complying with any other legal requirements applying to such operations at the time of harvest.

Accordingly, state laws relating to occupational health, safety and welfare applicable at the time of harvest as raised by the Hon. Mr Gilfillan would apply to such operations regardless of when the licence was issued, as would any other relevant and applicable state law, including those that relate to environmental care. It is only the right to harvest that will be protected by means of a licence under this part, rather than a general exemption from the law as the honourable member seems to be implying.

Clause 15 is the key component of the bill and aims to encourage investor confidence by confirming the right to harvest even though the current risk might be seen as minimal. The right to harvest is an important consideration

for forestry investors, having regard to the time it takes for a forest plantation to reach maturity, including the lack of any real return on investment until the plantation is harvested. I thank members for their support of the second reading of this bill.

Bill read a second time.

CONTROLLED SUBSTANCES (DRUG OFFENCE DIVERSION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 July. Page 1445.)

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their indications of support for the second reading of this bill. I begin by saying that I am very disappointed, nevertheless, with the degree of opposition to the bill in this place. I was aware of some small degree of generalised opposition from some people, named and unnamed, as a result of one letter to the Editor of the *Advertiser* and three emails to the government, one of which certainly uses a name that is not that of the author. The Aboriginal Drug and Alcohol Council of South Australia, quoted by Leader of the Opposition, did not see fit to acquaint me with its views, and I will return to that quotation in a moment.

So far as the letter and emails are concerned, they bear such a striking resemblance to each other that one might be tempted to conclude that they are the work of the same person or a small group of persons. Some are, unsurprisingly, current members. They have a common set of themes. Those themes, repeated by the Leader of the Opposition and to some extent by the Hon. M J Elliott, are as follows:

(a) the legislation setting up Drug Aid and Assessment Panels (DAAP) was a leader in the field;

(b) DAAP has done a wonderful job and with the right funding will continue to do the best job possible; and

(c) the enactment of this legislation is a backward step which is only being done to conform with the Eastern States' catching up with our trendsetting.

This chain of reasoning is simply fallacious. It is true that, when the legislation setting up DAAP in the mid 1980s was passed, it was a trendsetter but that does not mean that it still is. The world has moved on since 1985, although some correspondents seem to be unable to grasp that fact, and that includes research and policy formulation about the best and most effective way of delivering appropriate assessment and treatment services to a variety of client populations.

The assertion that the DAAP system is doing a wonderful job is simply that—an assertion. The facts are that the DAAP system has not been evaluated at all, let alone thoroughly, until this year. That evaluation has been done by a company of consultants and it is an independent evaluation. Members may rubbish the interim report of the consultants, or the methodology that they have employed, with impunity in this place, but it is very easy to play the man, not the ball, particularly when, as in this debate, no specifics have been given, so I will give some specifics. In particular, I refer to just some of the headings in the interim report:

- no formal monitoring of DAAP;
- no systematic or standardised approach for treatment and other intervention;
- training for stakeholders is not in place;
- access to DAAP is a problem;
- problems with accessing referral services in a timely manner;
- limited conditions imposed on clients for pragmatic reasons;
- communication between DAAP and other stakeholders can be improved;
- DAAP is not meeting the needs of some groups;
- problems with the current database.

The opposition simply seems to have taken the mistaken line on what this legislation tries to do that has been taken by those few who feel threatened by change. I had thought that the intentions of the government were clearly spelled out in the second reading. When the government of the day enacted the legislation that created DAAP, it was, in the climate of the time, a daring and innovative change. The government and the parliament were rightly cautious. The resulting legislation is therefore very detailed, very inflexible and very prescriptive. In fact, all parties in this chamber have moved on from the attitudes of that time and all, it seems to me, accept fully the policy that says there must be a strategy for the diversion of some kinds of drug offenders from the criminal justice system.

What the bill seeks to do is not to dismantle or abolish DAAP but to take the 1980s caution and inflexibility out of the legislation dealing with diversionary schemes of this kind. To take one extreme, it should be quite clear that, if the bill is passed, it will be legally possible for the Minister for Human Services to recreate the DAAP system completely. That should be clear from proposed section 35(2) of the new part which provides:

> Without limiting subsection (1), the minister may establish panels of persons with a view to the accreditation of such a panel as a drug assessment service under that subsection.

The question that follows, of course, is whether it would be wise to do so. That will of course be a matter for the Minister for Human Services in the end, taking into account the findings in the final report of the evaluation to which I have referred, but it would be remiss of me not to emphasise two points to the Council about that decision. The first is that this legislation is brought before the Council in order to implement a COAG (Council of Australian Governments) agreement to which this state is a party.

The COAG agreement to the National Framework was established by expert committees of the Ministerial Council on the Drugs Strategy. The eastern states have no interest whatsoever in forcing South Australia to follow some allegedly regressive line in what South Australia does about drug diversion. However, the commonwealth government does have a good and valid interest in how its money will be spent if it funds South Australian government programs. That is precisely what it has proposed doing.

That brings me to my second point. The honourable Leader of the Opposition asked whether commonwealth moneys would be withheld and stated that she had been informed that such an assertion was not true. The answer to that question is in the second reading explanation. A funding agreement between the commonwealth and the state is currently being negotiated. The commonwealth has provided a model agreement to all states and territories. Obviously, negotiation implies the possibility of some variations.

However, in the course of forming the policy that underlies the bill before the Council, the relevant commonwealth officers were directly asked whether the current legislative framework dictating the DAAP system as the exclusive monopoly for the provision of drug diversion services would be compatible with the commonwealth's funding scheme, and the answer was no. This issue was said

to be a severe impediment to significant commonwealth funding, which would require a complete reassessment of the commonwealth's commitment to fund any South Australian programs other than a program for juveniles.

The result may well be that funding for programs will not be spent. The provision of services for juveniles is, of course, not subject to the restrictive regime sought to be amended. The commonwealth draft agreement provides the scheme to deliver services to clients through a 'preferred provider' arrangement. One clause of the draft agreement says:

> The state shall ensure that the approval process will be open and accessible to both non-government and public sector providers, and that all approved preferred providers agree to work within the National Framework and the terms of this agreement.

The current mandatory monopolistic legislative scheme in this state cannot comply with that and related conditions. But that is not all. Considered on its merits, such a scheme is sensible. The arguments based, for example, on accessibility and responsiveness have been made in the second reading explanation. Modern thinking about therapeutic intervention into the life of an addict or substance abuser is that the moment of arrest must be employed (and exploited) as a moment of crisis in the person's life as rapidly as possible for maximum effect.

The new police-based model for drug diversion and intervention places a high premium on contact with a therapeutic regime within 24 hours of police contact. There is considerable virtue in directing people into therapeutic services that are local to them and the community in which they live. Obviously, this is more convenient for the person concerned, particularly if he or she does not live in the metropolitan area.

In addition, localisation enables not only effective liaison between police local area commands and drug assessment and treatment providers, but also linkages between treatment providers and other service providers such as detoxification services, housing, health services, employment services and so on. All of this is better with a more flexible and open system than the highly inflexible and centralised DAAP system.

The bill seeks to enable the development of a decentralised drug assessment and treatment service system being available in more locations closer to where people live (this is especially relevant for country people) and more culturally appropriate services. I should add that the system proposed by the bill has the support of the Drug and Alcohol Services Council, which services the DAAP scheme and which has great expertise in this area.

The honourable Leader of the Opposition has asked whether there is currently a libel action before the District Court in relation to the evaluation report. I have heard that this is so, but I do not know that that is so. In any event, I do not regard the issue as relevant to the bill before the Council, except perhaps as an indication that some people appear to feel very threatened by change. I now turn to the quoted comments from the Aboriginal Drug and Alcohol Council of South Australia.

There are three points here. The first is about police discretion. It is easy to understand the apprehension of ADAC about the history of police interaction with indigenous people, but the fact of the matter is that the bill before the Council does not give police any more discretion than they have now. Under the current system the police have the power to decide what charges will be preferred against a defendant, and it is the police who will refer the defendant to DAAP.

What will change under the new system is that DAAP will no longer necessarily be the monopoly service provider. Instead, it is possible for the minister to accredit properly constituted and capable organisations, including Aboriginal organisations, if they qualify for accreditation. I would have thought that possibility a step forward, from ADAC's point of view.

The second point is that the honourable leader and ADAC and the Hon. Michael Elliott are labouring under a fundamental misapprehension about what this bill does. All three have stated that the proposed new system will be discretionary in the sense that it removes the element of mandatory referral that exists under the current system. The bill does no such thing. I refer members to what is proposed to be section 36(1), which provides:

> Where a person is alleged to have committed a simple possession offence, a police officer must offer the person the opportunity of being referred to a nominated assessment service.

Nothing could be clearer. The referral is mandatory in the sense that it is up to the defendant whether or not to be diverted; it is not up to the police officer. The bill does not compel the defendant to enter into assessment and treatment, for the simple reason that people cannot be effectively treated for drug addition against their will.

The third point relates to ADAC's comment about police charging so few people with simple possession. I have had no notice of this question so I have not had the time to have it checked. There is quite clearly an identified problem with bringing indigenous defendants into any diversion regime, not only the drug diversion regime. Quite why that is so is open to conjecture. I do not believe that the answer is so simple that the police are in some way charging Aboriginal people more severely with drug offences than they are others.

If a defendant is found by police to be committing a more serious drug offence than simple possession, it is that police officer's job to charge the appropriate offence. I believe that this parliament would expect no less. Serious drug offences should be charged where found. Whether or not this parliament wants to change the regime of drug offences themselves is another matter and not, I suggest, relevant to this debate.

I turn now to two other matters raised by the Hon. Michael Elliott. The honourable member made extensive reference to the drug court initiative. Members will be aware that a drug court trial has begun in the Magistrates Court. That initiative lies at the other extreme of the provision of assessment and treatment services to addicted offenders, and is not a diversion program at all.

Offenders remain responsible for the crimes committed and remain liable to sentence for those crimes. While the drug diversion programs that we are debating here are aimed at the very minor simple possession offences, the drug court initiative is aimed at much more serious offences. Many of those who go through the drug courts successfully may still face a prison sentence, although success in the program will operate as a substantial mitigation factor when it comes to sentencing. The two programs are quite distinct and do not overlap at all.

The second matter that the honourable raised was the question of coordination of programs. I agree with his sentiments and so does my colleague, the Minister for Human Services. The coordination of programs and service provision standards is a key requirement of the commonwealth funding agreement and featured prominently in the discussions within

government that led to the formulation of this bill. That is what the accreditation process described in the bill is for. The sole question is whether the bill should be more prescriptive about that matter. It was decided that it should not. A major reason why the bill is before the parliament now is that, for reasons thought to be good at the time, it was over-prescriptive in the establishment of organisations, structures and their constitution. The same mistake should not be made again.

In conclusion, I urge the Council to support the bill. This bill should not be left with 1980s legislation which has been subjected to significant criticism in the only independent and not self-interested evaluation that has been done of it. Those who are against change urge that more money be given to drug diversion yet adamantly stand in the way of change which will achieve just that. The best features of the DAP system have been retained in this bill which I commend to the Council.

The Council divided on the second reading:

AYES (13)

Cameron, T. G.	Crothers, T.
Davis, L. H.	Dawkins, J. S. L.
Elliott, M. J.	Gilfillan, I.
Griffin, K. T. (teller)	Kanck, S. M.
Lawson, R. D.	Lucas, R. I.
Redford, A. J.	Schaefer, C. V.
Xenophon, N.	

NOES (4)

Pickles, C. A. (teller)	Roberts, R. R.
Weatherill, G.	Zollo, C.

PAIR(S)

Laidlaw, D. V.	Roberts, T. G.
Stefani, J. F.	Holloway, P.

Majority of 9 for the Ayes.

Second reading thus carried.

SOUTH AUSTRALIAN MOTOR SPORT (MISCELLANEOUS) AMENDMENT BILL

In committee.

Clause 1.

The Hon. T.G. CAMERON: I did not make a second reading contribution but I indicate my support for the bill and I will be voting for it. It provides for the facility for the Le Mans race and the Clipsal 500. As I said to the General Manager of Clipsal 500 when I spoke to him this morning, it will be hard for me to oppose the bill because SA First sponsors a car in the Clipsal 500. That indicates what SA First thinks of the racing event. Without any equivocation at all, SA First supports this legislation.

Clause passed.

Remaining clauses (2 to 9), schedule and title passed.

Bill read a third time and passed.

EMERGENCY SERVICES LEVY

Adjourned debate on motion of Hon. Ian Gilfillan (resumed on motion).

(Continued from page 1466.)

The Hon. IAN GILFILLAN: I am disappointed that I do not have the benefit of hearing the Attorney-General contribute to this debate on behalf of the government. I know he was geared up to do so, and no doubt he would have done it with some vigour. In closing the debate, I do not intend to repeat the observations that I made earlier when moving the motion. I listened to the Hon. Paul Holloway's argument opposing the motion. He indicated several reasons why he felt uneasy about it and stated that they were why it was impossible for the opposition to support the motion.

The first reason he gave was that it is improper for the Legislative Council to dictate to the government. However, the wording of the motion is a recommendation in very polite terms, and I cannot see that it places any undue pressure on the other place. It is purely an exercise in democracy. If the Hon. Paul Holloway's argument is to be taken to its full extent, it would have been improper for the Council to consider the bill in the first place. The Council was in a far stronger position as a house of parliament to influence the emergency services levy bill when we debated that legislation. This motion will enable the Council to support or oppose a recommendation that the government and the House of Assembly take action to amend the Emergency Services Funding Act.

Both the honourable member and the government tend to imply that this measure is superfluous. It is a deception—one certainly that I will not fall for—that, because there has been some dramatic reduction in the amount that has been collected by the levy, therefore it is no longer necessary to look at the justification for having a cap on the amount which can be collected. I would say the contrary is true. We as a parliament unanimously supported a measure which was introduced as a revenue neutral procedure to raise the funds in a more equitable way to service the emergency services than had pertained in the past. It was very quickly apparent that it was an extraordinarily greedy taxation measure that was virtually capable of collecting boundless funds, which, with a little imagination, could then be stretched into quite clearly general revenue replacing activities.

I do not think very many people disagreed that it was a surprise how much money was to be milked out of the community through this procedure, and for many of us it really negated the reason why we supported the principle of this emergency services levy in the first place: it was to be hypothecated for the pure funding of emergency services. The Labor Party opposition got very sanctimonious about the fact that it had measures in place which, had they been supported by the Democrats, would have meant that there could be control of the amount of funds collected and how they could be spent; and it hitched that onto an amendment which would have allowed the Economic and Finance Committee to have some control.

I cannot follow the logic of that, first, because the Economic and Finance Committee does not exercise dictatorial power over the government: it can only make recommendations and produce reports. Therefore, it would have been a little bit of face saving to pretend that this was to be hived off to an independent body which would control a greedy government. The other aspect is that the composition of the Economic and Finance Committee, from time to time by certain election of individuals to that committee, can be very sympathetic to the government of the day. We are far from content that the safeguard for the people of South Australia—that they will only be asked to pay an amount of money to cover the reasonable costs of the emergency services—will be in any way guaranteed by just leaving it to the so-called control of or reference to the Economic and Finance Committee.

It is interesting to note that, although in the first blush of enthusiasm as to how much money was coming in the first benefit of $20 million from the supposed sale of ETSA and

reduced the first impost, as the number crunchers got closer to the truth of how much money was likely to be collected, there was another series of reductions so that the eventual figure—which was tailored to be more palatable to the public and to the media, which had picked up the issue by way of a cause célèbre—was in fact even less, as is trumpeted by the government. In particular, it was less than the $82 million referred to in this motion. I do not believe that there is any reason to be niggardly in the funding of emergency services, and this is where I see a double standard.

The government is proudly strutting about because it has cut the figure below the amount that the emergency services were receiving prior to this levy being introduced, if that is doing the state a favour. We believe that the emergency services deserve adequate funding, and adequate funding will be given only if this amount of $82 million is available to be distributed, with the distribution of those costs being watched very closely by those who are managing it. We believe that this figure is workable and that South Australia can have efficient, well run and well funded emergency services to cover all the brackets that are embraced by this legislation with the figure that I have proposed in this motion.

I strongly believe in this measure. The most significant feature is that it caps the amount of the levy so that in future South Australians can have confidence when they are paying their levy that it is not an open ended revenue measure for whichever of the two old parties happens to be in power at the time. The other measures are at least some significant reforms in an attempt to make it more equitable. I have spoken in detail on those matters in the introductory remarks that I made and I do not intend to repeat them. Let me just reinforce the fact that points two, three and four relate to equity; and point five relates to a basic justice in our community whereby it is everyone's expectation—and it should be everyone's right—to be able to have a judicial review of decisions made which influence the actual structures that are involved with this act. The government under the act which has now been passed deprives an individual, or a company, of the right to seek judicial review on the calculation of the levy.

It is my intention, as I have indicated already, to urge that this measure be accepted by this Council and that it be followed eventually by government legislation in the House of Assembly. I believe nothing less than this will restore the public's confidence in this system of collecting the revenue for the emergency services levy. Members would have read in several avenues in the media about the pressure to abolish the emergency services levy scheme altogether. I gather that some Liberal backbenchers have argued that as they have felt the backlash of their constituents really putting them on the rack because of the pain from the emergency services levy as it was first introduced and the inequities of it as people see it. Rather than throw that particular baby out, the baby itself in its original presentation was a great improvement on what had applied prior to that; and this, I emphasise to members, is a measure of support to ensure that we do not go back and that we encourage the public to have trust in this as a fair and worthwhile way of financing emergency services.

The Council divided on the motion:

AYES (4)

Cameron, T. G.	Elliott, M. J.
Gilfillan, I. (teller)	Kanck, S. M.

NOES (13)

Davis, L. H.	Dawkins, J. S. L.
Griffin, K. T. (teller)	Holloway, P.
Laidlaw, D. V.	Lawson, R. D.

NOES (cont.)

Lucas, R. I.	Pickles, C. A.
Redford, A. J.	Roberts, R. R.
Schaefer, C. V.	Weatherill, G.
Zollo, C.	

Majority of 9 for the Noes.

Motion thus negatived.

SUPPLY BILL

Adjourned debate on second reading.

(Continued from 23 May. Page 1078.)

The Hon. R.I. LUCAS (Treasurer): I thank the Hon. Carmel Zollo for the broad comments that she made in relation to the bill, although I would not say that they were all necessarily supportive. I thank members for their indications of support for the passage of the legislation.

Bill read a second time and taken through its remaining stages.

RACING (CONTROLLING AUTHORITIES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 28 June. Page 1367.)

The Hon. R.R. ROBERTS: The opposition is proposing not necessarily that the bill not be read a second time but that it should be adjourned until a later date. Most of the issues with respect to this matter were covered by my colleague in another place, Michael Wright. He has a history in this industry: as a trade union official he did some work with respect to his members working in the racing industry; he comes from a family background in trotting; and he has taken to his task in the racing industry with some relish, as was witnessed by the length of his contribution in another place. I do not intend to go over his observations about personalities in the industry. However, I will be looking at the history of the racing administration, which I think is the important issue here.

If we go back a few years, in my relatively short time in this place the administration of the three particular codes has been handled by three boards: the Harness Racing Board, SAJC (principally SARCC), and the Greyhound Racing Control Board. In those days, the chairman of each group was appointed by the minister, and it is fair to say that most of those were political appointments: Des Corcoran with respect to the greyhound racing industry, and Jack Wright was the president of the harness racing authority in South Australia. The three boards were charged with the day-to-day administration of racing and promotion. There was an overarching committee that looked at the industry as a whole—it looked at things such as the distribution of the percentages from the TAB—and the rest were very much left to themselves.

Most people believe that that system of each individual board with a political appointment at its head and a number of other political appointments (as was alleged) on the board did not work. So, the concept of RIDA was introduced a few years back, and was ushered in by Minister Ingerson at that time. Kevin Foley, who was our spokesman on the matter, came to me, as the person who handled the racing bills for him in the upper house at that time, and very gleefully, I suspect, asked whether I would agree to a board to override the three codes. As most people have heard me mention in

relation to this subject a number of times, I am a great believer in a gambling commission which would look at all the gambling issues in South Australia—not just horse racing and greyhound racing but also activities involving the lotteries, the TAB, the Casino and gaming machines—and you control it from that point with highly qualified people, appropriately paid, to avoid corruption.

Then Kevin Foley explained RIDA to me. RIDA was supposed to take away the political appointees and provide a professional group of people with a range of business expertise in economics, finance, promotion and all these things. It was to take the politics out of the racing industry. So, what did we—

The Hon. T.G. Cameron: That was a pipedream. How do you take the politics out of the racing industry?

The Hon. R.R. ROBERTS: I thank the honourable member for his interjection, because it leads me to the subject that I was about to raise. Whilst in some cases you could loosely say that the people on the board of RIDA fall into particular categories, it seems that in the last couple of years RIDA has developed into a sinecure for people with long and loyal service within the Liberal Party. That may well have occurred under another government; the faces may well have been different but the result may well have been the same. We still have a harness racing commission, the SAJC and its ancillary group and the greyhound racing board, and all those people are appointed by the minister. So, instead of having one layer of political appointees, we now have two, with an overarching one.

Everyone was prepared to give RIDA a try to see if it would work. I have heard the minister speak at public meetings lately, and I have been told on a number of occasions that he is not impressed with the operations of RIDA. People in the industry are not happy with the operations of RIDA, and the operations of RIDA have also been impinged upon by the pressures facing the racing industry over the last few years, with the introduction of poker machines and other competing pressures on the leisure dollar. So, in the last couple of years I think it is fair to say that, with the declining crowds for a host of reasons, despite spending millions of dollars on promotion to try to get people back to the tracks, and so on, RIDA has failed. Millions of dollars have been spent; the pressures have taken over.

A few years ago, we had the problem of a financial crisis within the racing industry. This industry, which is often touted by many people in both houses of parliament as perhaps the third biggest, most important industry in South Australia, provides employment not only in connection with racing, involving strappers, and so on, but in the entertainment industry and covers a whole range of other industry participants; and a number of unions are involved in the industry. So, because this is a statutory authority, when this very important industry was under the greatest stress, to the point where there was a financial crisis, the minister was able to act, and on two different occasions there were adjustments to the rules of racing.

On one occasion we had the Racecourse Development Fund set up, essentially through the uncollected dividends, with the fractions going into that fund. The government, recognising the crisis and the cries from the industry, was able to use its facility to adjust those moneys to fix the industry—albeit, as it turned out, on a short-term basis. A couple of years later we had another crisis and we were able to rearrange and distribute the TAB funds to the industry on the basis that 55 per cent was profit and 45 per cent was taken by the government.

We also have this phenomenon within the workings of the TAB of uncollected dividends and fractions. When last we faced a crisis, we were able, because this industry is covered by the statutory authority of the government, which provides a safety net, to use those funds to refund the industry. We were able to adjust the distribution of funds so that the industry could bubble along.

As time has passed, another interesting aspect has emerged in the whole industry. This government, which is philosophically different from me, has always been happy to look at selling the Totalisator Agency Board. The government distributed a document called the Detailed Scoping Review into the South Australian Totalisator Agency Board (SA TAB). The review contains a number of objectives and I will quote a couple to give members some idea of what it is talking about. The document states:

> The primary objective of the Detailed Scoping Review is to identify an appropriate commercial outcome for the government which would determine its relationship with the South Australian TAB and which will maximise financial returns while minimising commercial risk. The Detailed Scoping Review is to examine a range of options for the long-term future of the SA TAB and its relationship with the government, which will ensure that SA TAB is well positioned to respond to change in the industry environment within which it will be required to work.

The document talks about a range of options to be examined, as follows:

> The sale of the South Australian TAB, including the necessary restructuring prior to sale; linkage to other TABs; the status quo and/or do nothing; the partial sale or partnership arrangement with the strategic investor; and retention in government ownership but restructured to achieve commercial outcomes. The examination of each option will identify the returns and risks, both current and emergent, for the government and indicate appropriate means for minimising those risks. An important consideration will be the need to address the interests of all the stakeholders, including the importance of SA TAB to the racing industry in South Australia.

I emphasise the last sentence. It was always intended that there would be some consultation between the parties. With respect to this consultancy, under the heading, 'Consultancy Time Frame', the documentation states:

> The consultancy is to be undertaken within a time frame which is consistent with the government's program of reform and to coincide with the budget process. For this reason the final report is required by 1 May 1998.

This scoping study was contracted on the basis that it would be completed by 1 May 1998. We are now in the year 2000, almost three years from the time the review was concluded. The other place is now talking about submitting the proposal to sell the TAB and the restructure of the racing industry to three individual boards. A fair assessment would be that that proposition would take us back to the past. This is not a futuristic concept. The government is proposing that we have three separate boards—as we had pre-RIDA—abolish RIDA and start from there.

I have been involved in discussions for about 12 months with country clubs, representatives of which have been talking with the minister about corporatisation. On each occasion when the subject was raised with me I was asked the simple question: what is the government going to do with the TAB? They ask what the government is going to do with the TAB because it provides 90 per cent of the funding for the industry. The government is saying to the three codes that it wants to corporatise them; the codes will run the industry; and the government will rip away the safety net of the

government guarantee. However, it is not prepared to tell the codes what the bottom line is. It is a bit like buying a fish shop. The first thing you want to know is what the bottom line is. You want to know whether there is an income stream.

The matter was raised with the minister in a number of forums, which were an interesting concept on their own, because there was one process for the racing industry, another process for the harness racing industry, and yet another process for the greyhound industry, but they are all funded by the one TAB operation. When I spoke to the greyhound racing people, they were going to consultation meetings. I inquired whether they had asked the minister what the government was going to do with the TAB. The response always was, 'We don't want to talk about the TAB. We want to talk about the corporatisation.' Talk about buying a pig in a poke!

We all know that the racing industry is in crisis and that funding from the TAB is its major source of income, but the racing minister and all other government members are talking down the TAB, saying that, because it is not viable, we ought to get rid of it, and we need to find a mug as quickly as possible to buy it. Later on, the government will complain, as it did with ETSA, having talked it down for two years, that it did not get enough money for it. The same process will happen with the TAB, and everyone says that we are going to unload the TAB.

Then there was the scoping study, which was supposed to be completed in May 1998, but no-one was allowed to see it. The Harness Racing Board, the SAJC and the greyhound racing industry were not allowed to look at the scoping study, despite requests from the harness racing industry in writing to see that 84-page document. A letter dated 18 February was sent to the Hon. Iain Evans from Peter Marshall, President of the Harness Racing Board, and it states:

> Dear Iain, I enclose a copy of a recent response from the SA Harness Racing Authority regarding a request by the SA Harness Racing Club to view the 84 page document regarding the privatisation process of the TAB.
>
> The SA Harness Racing Club, the metropolitan club in South Australia, is obviously assessed as being a member of the public. I am extremely disappointed in the consultative process thus far and the information provided to the club by the Chairman's Group. I ask that this document be provided by your office to the SA Harness Racing Club even if it needs to be stamped confidential. Also enclosed is a copy of a letter of agreement, at your request, where the Chairman's Group could act on our behalf. As you can see, part 2 of that agreement has not been adhered to.

That last matter refers to a request by the minister that he negotiate corporatisation and the sale of the TAB with the three chairmen. Nobody else was to be involved, and the Harness Racing Club provided an authority. It also provided clarification, as follows:

> I acknowledge receipt of your letter of 15 July 1999 seeking written authorisation for the South Australian Harness Racing Authority to act in negotiations with the SA government in privatisation of SA TAB.
>
> This correspondence was discussed at a committee meeting held on the same date, 15 July 1999, at which time the committee resolved that the South Australian Harness Racing Authority can only act in negotiations with certain provisions as outlined:
>
> (1) The SA Harness Racing Authority can negotiate re the privatisation of the SA TAB but will not—

which is underlined and highlighted—

> enter into any formal agreements without the consent of the SA Harness Racing Club.
>
> (2) The SA Harness Racing Club must be kept informed at all times of relevant discussions had with the government regarding the privatisation of SA TAB.

So, the members of the Harness Racing Authority were all appointed by the minister on the basis of their expertise, their honesty and their efficiency, yet the authority was not allowed to know about the sale of the TAB. Only the chairman's group could know about that. The chairman's group consists of three people appointed by the minister, and I suggest that they are basically owned by the minister. He appoints them, directs them and tells them what to do, and they do what the minister tells them.

We have a group of three people, sitting with the minister's officers, talking about the most important changes that the racing industry has seen in half a century, and the Harness Racing Board, the Greyhound Racing Board and the SAJC committee—all appointed, as I said, by the same minister because of their honesty, integrity, and ability—were kept in the dark. The corporatisation negotiations took three different forms, and right the way throughout every effort to find out what the government intended to do with the TAB was thwarted by the minister; he did not want to talk about that. This went on until about two or three months ago—

The Hon. T.G. Cameron: It took him two years to make up his mind and then five minutes to change it.

The Hon. R.R. ROBERTS: Exactly. Up until a few weeks ago, these negotiations were basically an operation of attrition. They kept coming back and industry members kept saying, 'We want to know what is going on with the TAB first, because we do not want to be left holding the baby, with no government safety net after you walk away.' Finally, word got around and they started to say, 'Maybe we will give the TAB to the racing industry.' A lot of them rose to the boat like fish, and they said, 'We might end up getting the TAB for nothing.' That was the sprat to catch the mackerel. It would never occur. You could not glean that from the scoping study, which was a secret document. It was a document created by the government for the industry but the industry was not allowed to see it. A few weeks ago, a lot of them capitulated.

In the trotting industry, there are 12 country clubs and one metropolitan club in South Australia. There has been a process of divide and rule which my colleague in another place, Michael Wright, has outlined. Those 12 country clubs were given 12 votes, and the metropolitan club was given one vote. Of course, the result was inevitable. They just got rolled by the numbers. However, in the racing industry the SAJC had the majority of the say. The country and the provincial clubs were not given the same status as the individual clubs in country areas in harness racing. A completely different process occurred within the greyhound industry, where its executive was split six all as to whether or not it should go down the corporatisation track. In discussions with the two groups the minister said, 'I'm the minister; I'm having the casting vote, and you can have my model.' So we have three different structures in three different codes, all going to be controlled by the operations of one funding stream. It is a dog's breakfast; it cannot work; and it will not work.

The minister justifies his approach by saying that the industry has said that it wants the right to control its own destiny. That is true. It wants more control on a day-to-day basis on how it runs its operations. However, the minister, seeing that the industry is in crisis, has said, 'This is a good chance for us to unload this thing because, when we have had a problem in this industry before, because it was a statutory authority, the government had the right to move in.' We are looking at these three new structures with a privatised TAB—and we will talk a little later about the proposed structure of

the TAB—and how they will all be competing for the same sorts of funds, and nobody really has any direction as to what their percentages will be. Under the distribution now, 75 per cent goes to racing, 17.5 per cent goes to harness and the rest goes to the dogs. But if you look at the new bills, which were finally produced last week, those percentages are now going to be by the Independent Gaming Commission.

The Hon. T.G. Cameron interjecting:

The Hon. R.R. ROBERTS: You do not know where. It has been done in haste. Those other bills have been done in haste and, thankfully, they are put aside in the other place until such time as they can be properly assessed and should be properly assessed by those people charged with running this industry. They ought to have a look at the bottom line. They need a fair opportunity to assess all those problems on which the scoping study concluded its remarks in May 1998.

They gave them to these people last week and said 'Make a decision on it.' If members see the bills, they are all half an inch thick. Up until the Monday prior to the announcement about the distribution of the percentages for the TAB if it is sold, nobody was talking about the bills. You could not see them: nobody knew anything about them. They were all secret. They had not made up their minds.

But what had occurred is that at the eleventh hour the industry woke up that it was going to be sold a pup. The government is trying to unload this industry so that, if it goes bad in future, when the industry comes cap in hand, it says, 'Don't come to us: you're big boys now. You're running the show. Go out and do some fundraising.' If that was an option, it would not be in the trouble it is in at the moment. If this industry were buoyant and bubbling along, this corporatisation proposal would not be a bad idea. But it is not, and that is why the government wants to unload it.

It wants to unload the responsibility for it, but it wants to unload it without telling the people what their funding base will be in the future. They do not trust the minister's appointees, and every one of these people on the Harness Racing Authority, greyhounds and racing, have all been approved by the minister. But the minister does not trust them to look at the proposal and would not let them look at the proposal until three things occurred.

The Greyhound Racing Authority was very concerned when the minister came in and used his casting vote to ram a proposition down its neck. Then there was a meeting by the South Australian Harness Racing Club that moved a motion of no confidence in the minister and in the chairman of the Harness Racing Authority, who was, I might point out, allegedly acting on their behalf. There was then a meeting down at Morphettville at 8.30 on the Tuesday morning in the scraping shed where about 250 people turned up, and the scribes in the press started to say, 'There's something really wrong with this.'

Then we saw something quite unique: the three chairmen were called together on the Wednesday and stayed in the meeting until 9.30 that night until they thrashed out a proposition about what would happen with the sale of the TAB. Principally, what they are saying is that if we sell the TAB there will be an $18 million distribution up front. One expects that the SAJC will want 75 per cent of that, harness will want 17.5 per cent and the dogs will get the rest—but that may not happen.

There is a so-called guaranteed $41 million per year for three years, and then a new formula kicks in. That sounds fine, but one of the things we have had a problem with is finding out just what is the financial situation within the industry. The harness racing industry is the one that I know best. Up until two days ago we had not seen the financial statement for the 1998-99 year. When we went to Globe Derby, the minister on advice said it had been tabled months ago when, in fact, it had not.

It turned up here on Tuesday and, if one believes the signatures and the dates on it, it was signed off on 31 January this year, but no one has ever seen it, although I have noted that one member of parliament quoted from it before it was actually laid on the table. But that is another question to address. Last week the announcement was made that all these figures would be paid out, but nobody has actually said that we have a buyer. The proposition sounds attractive if it comes off, but what do we have to look at? We have to sell a TAB, which the government says is no good. The scoping study allegedly says it was no good for the industry and that we ought to unload it, but then a couple of months ago—

The Hon. Nick Xenophon interjecting:

The Hon. R.R. ROBERTS: They will not even produce the scoping study for their own ministerially appointed board, so how do you think you will get it? If this government was fair dinkum it would release those scoping studies to the industry so that it could look at the range of options. I will come to what the industry is doing in reality. It is actually talking about buying the TAB.

The Hon. Nick Xenophon: It needs a scoping study to release the scoping study.

The Hon. R.R. ROBERTS: Absolutely; that may well be the case. Not only have they come up with a proposition for the sale of the TAB but also they said they wanted to sell the Lotteries Commission. What they are really talking about is not selling just the TAB—they want to throw in the lotteries. The Hon. Mr Dawkins would understand this, having been to a few clearing sales. Sometimes they get a box of rubbish that no-one will bid for, so the old technique is to throw in a couple of Sidchrome spanners, which they buy and they then take away the rubbish. That is what the government has done—it has said that the TAB is no good.

The Hon. T.G. Cameron: Does that work?

The Hon. R.R. ROBERTS: It has worked once or twice.

Members interjecting:

The Hon. R.R. ROBERTS: I've been there and done that. What the government failed to remember in respect of that little proposition is that it has to get two bills through the parliament before it can do that. The sale of the TAB is a proposition that the Labor Party said it would look at. We have never discounted it out of hand. I have a personal view somewhat contrary to that, but that is the position of the Labor Party and the industry. The industry has not said that it will wipe off corporatisation altogether. It has said that it will look at all the cards. It does not want only three or four cards up its sleeve and to give us just one—it wants this parliament to put this bill aside. Now that they have put the lotteries and the TAB aside, it makes good sense to allow all the ramifications and all the economic assessment to occur. The proposition that the racing industry is putting to me is that it may be interested in buying the TAB.

If we look at the TAB and the lotteries in isolation, decency demands that we do not sell the Lotteries Commission. I am old enough to remember that in 1966 the Walsh government, after months of negotiation to try to get a lottery into South Australia, was frustrated by people of the persuasion of those sitting opposite. They were saying that we could not have a state lottery because we would bring in the Mafia, the triads, black market money laundering and all these

things. They said we could not have a lottery in private hands. That is what your lot were saying: that we could not have a lottery because we are still in the nanny state. So Walsh and Dunstan said, 'We will have a referendum and see what the people of South Australia want.' They put a proposition to the people of South Australia, which was that we would have a lottery run by the state to avoid the corruption of private enterprise, with all the proceeds going to the Hospitals Fund.

That referendum returned a result of about 66½ per cent, saying that it should be run by the government, with the proceeds going into the Hospitals Fund. Is it not ironic that almost 30 years later this government, with all those wowsers it had in it previously, is now proposing that we sell the people's asset, sell that income stream to the hospitals, without a referendum and without any consideration of the wishes of the people of South Australia? All of a sudden the crooks, the triads and the Mafia would not get involved in any nefarious activities. The proposition is ludicrous.

My suggestion to the Council is that we wipe off consideration of the sale of the Lotteries Commission, because that is a decision that has to be taken at another place, that is, at the ballot box. What are we left with? We are left with the TAB—the principal funding base of the racing industry. Once you take away the Lotteries Commission and look at the TAB, the potential buyers reduce dramatically. One of the principal bidders, they tell me, is the Queensland Lotteries Commission. What we could end up with is a lottery run in South Australia which used to fund our hospitals and which could be owned by the Queensland government owned Lotteries Commission to fund hospitals in Queensland. That is the proposition being put to us with these suggestions by the government.

The other problem we will face is that there are only two real bidders for the TAB: the New South Wales TAB and the Victorian TAB. If one of those players buys the TAB, what is likely to happen? It will downsize—that word that these Liberals like. It means unemployment. Because there are fixed income streams, there is a proposition that lays out the fixed income streams that can be realised from this, just as occurred with ETSA—but you botched that one up. You will have to have another document which stipulates the income streams—the $18 million and the $41 million recurrent. That will all have to be on a piece of paper. I would advise anyone who wanted to buy it to check the bottom line. They should get a public servant to check it before they buy it: but they should not get Legh Davis.

What we are really talking about is a limited sale of the TAB. However, there is now emerging another serious contender for the TAB. I have been advised in the last couple of days that corporate bankers are making inquiries about investment capital so that the racing industry, after a proper analysis of the sale of the TAB and what that will mean, may be interested in buying it. It will leave us with three independent racing authorities owning the TAB. It is not known whether that is a serious proposition, because these people only sighted the documents in the last week. They would not know whether it was a good deal because, although the government has charged them with running the industry, it would not allow them to examine the scoping studies. It could easily be argued that these studies were their property and that they should have had the right to examine them. That is the situation at the moment. I saw a delegation today, and I am told—

The Hon. T.G. Cameron interjecting:

The Hon. R.R. ROBERTS: No, the racing industry.

The Hon. T.G. Cameron interjecting:

The Hon. R.R. ROBERTS: They had been waiting an hour when I arrived back here at 5.30 p.m. They were sick of waiting to talk to you lot—and when they do talk to you, you do not tell them anything. They advised me today that they had consulted a Queen's Counsel regarding the legalities of the government's corporation proposal. Given the government's track record, I think caution is required because the advice from their Queen's Counsel is that there may well be a legal problem with the proposition.

I understand that a number of racing industry meetings were held today in South Australia where people indicated that they felt disfranchised, that they had not been consulted, and were unfairly dealt with. I understand that they will be corresponding with the minister tomorrow. They want this proposal postponed so that they have an opportunity to assess and evaluate all the ramifications of the sale of the TAB and its effect on the future viability of racing in South Australia.

The Hon. P. Holloway interjecting:

The Hon. R.R. ROBERTS: I think the racing industry would be eternally grateful to the Legislative Council if the Legislative Council were to say, 'All right, we are going to go into a break. The lower house has now withdrawn or stopped progress of the TAB bill and the lotteries bill, so it will not do any harm if that occurs.' This corporatisation is not vital. RIDA is still there; the world will not come crashing down; all the ministerial appointments on RIDA, all your friends from the Liberal Party, will still be there; and all the ministerial appointments on the boards will still be there.

The distribution of the TAB profits is in place and, if the debate is delayed, it would give us all time to reflect on what is being proposed about corporatisation and how that fits in against the bottom line. We are asking the racing industry to take over without knowing what will happen. It does not know where it will go; it does not know whether it will get a sale. The figures of $18 million and $41 million sound very good if someone is prepared to buy it. What the minister has not addressed is what he will do if no-one buys it. Will the minister guarantee the $18 million upfront? Will he guarantee the $41 million? I think not.

The government is trying to dupe the industry into saying that it will take over control: 'You rip out the safety net and we will see whether we can fly, and we will take a punt that there is a mug out there that will buy this TAB and we will take a chance'. The government says that the TAB is no good, but it will not show us the scoping study which has been paid for with taxpayers' money. That is a ludicrous proposition. No-one buying a fish and chip shop would fall into that trap, and the racing industry should not be put into that position. The racing industry asks this Legislative Council to complete the process that has now started, that is, to put aside the TAB and the lotteries bills and to put aside the corporatisation bill.

The industry is not saying that it is opposed to corporatisation per se. It is saying that it wants to see the whole picture; it wants to assess the proposition put forward by the minister; and it wants the opportunity to say, 'We may want to buy it. We may want to look at the financial implications and see how that works. We may come back to a situation where the corporatisation model is appropriate. We may come back and say that we want to adjust the corporatisation model.' As I said a few minutes ago, this will not change the outcome of the sale of the TAB or the Lotteries Commission. It may not even stop the process of corporatisation. We will not be discussing the sale of the TAB until we come back in October

because the legislation has been withdrawn. That gives the industry sufficient time for consultation.

Will that fix the problem? No; it will not fix the problem unless the industry has access to all the information. First, it will need that scoping study. It will want to know what it is looking for. If the minister is worried about people such as me seeing it, fine, I understand that, but he should not object to the harness racing authority, the greyhound racing authority or the racing authority looking at those documents marked 'confidential' so that they can make proper assessments.

I come back to the initial point: they are all ministerial appointments made by the minister on the basis of their honesty, integrity and ability. The government should trust the people it appointed on that basis to assess fairly the documents (which it may feel are sensitive) so that they can make a sensible decision about their future and the future of what is claimed to be the third most important industry in South Australia. When Mitsubishi gets into trouble, this government flies forward and says how it will support it and says that it is vitally important for the people of South Australia.

I put this proposition to the government: this industry is just as vital to the people of South Australia as Mitsubishi. This industry is not just based at Lonsdale and Elizabeth, it goes right across the state and it is an integral part of the economies of some of those provincial towns. I know that the Hon. Terry Cameron has done a tour and has talked to people about TeleTrak racing and he has talked to the Port Pirie Harness Racing Authority about the implications. He obviously recognises that this is not a narrowed focused industry. It is a broad based industry on which local economies and many people's incomes and livelihoods depend.

This government has just set up the regional development board—I cannot remember the exact name of it now. One of its criteria is to do a community impact statement before we change any government services. I want to know what impact study has it done on this? What will these new arrangements mean to those country economies and those people who are employed in the racing industry? Clearly, a whole range of questions need to be addressed. I plead with members of the Legislative Council to put this bill aside. I am not even disposed to move that the bill not be read a second time. What I propose and I suggest to Independents and other members who hold the balance of power is that it would be a sensible and reasonable thing to put this bill aside and pick it up when we come back. By that time there should be proper evaluation and assessment.

The industry ought to be provided with all the information so that it can make sensible agreements, first about its attitude to the TAB and, if it is a viable proposition for the industry to buy it or take it over, it can make that assessment; and, secondly, it can make an assessment as to whether the corporatised model that is proposed is the most appropriate or whether it needs to be slightly amended. I appeal to the members of the Legislative Council to do what the industry is asking. All it is saying to me is that it wants time to stop and evaluate. We have an opportunity when the parliament gets up next week to provide that window.

If the government can convince us and the industry when we come back in October that this proposition is a good proposition, I will be supporting it. If the ministers wants to come out and say: 'It has to be done today: it is vital that it be done today', he is deluding himself and he is trying to delude us. The minister at Globe Derby Park last week derided RIDA, then he gets up in the House and supports RIDA. RIDA cannot even trust this particular minister. I am not asking the industry to trust RIDA, I am not asking them to trust the minister: I am asking them to trust the good judgment of the Legislative Council. I am asking members of the Legislative Council to accede to its very real and sensible wishes, which will not do any harm but may well do the third most important employment generator in this state a whole lot of good.

I will seek leave to conclude my remarks tomorrow because I think I will be provided with further information overnight. I point out to the Council that it was not the agreed procedure that I would speak tonight. The agreement with the minister was that we could debate this tomorrow and I was told today that information would be provided. I seek leave to conclude my remarks.

Leave granted; debate adjourned.

GROUND WATER (QUALCO-SUNLANDS) CONTROL BILL

Received from the House of Assembly and read a first time.

The Hon. R.I. LUCAS (Treasurer): I move:

That this bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

The Qualco Sunlands district, immediately downstream from Waikerie on the River Murray, comprises about 2700 ha of high value horticultural crops, mainly citrus and vines, which are irrigated by sprinkler irrigation systems. Large scale irrigation development in the Qualco Sunlands district commenced in the 1960's.

Drainage waters from irrigation applications have resulted in sustainability difficulties in a number of the irrigated properties as shallow water tables developed on underlying clay layers. Until recently the local management strategy was to install bores to drain excess water through the clay layers to the underlying materials, which resulted in a groundwater mound developing under the region and increased seepage of saline drainage water to the River Murray.

This practice is also clearly unsustainable, for both irrigation development and the River Murray. The Sunlands-Qualco irrigators (as the Qualco-Sunlands Drainage District Inc) have, with funds made available through the Murray Darling Basin's Drainage Program, assessed future drainage management options and have developed a comprehensive plan of action which includes new drainage infrastructure. The proposed infrastructure comprises a series of groundwater bores equipped with pumps that will draw down the groundwater mound and dispose the saline waters to the Stockyard Plain Evaporation Basin.

The Scheme will prevent (and reverse) the salinisation and waterlogging of prime horticultural land due to the irrigation induced groundwater mound under the district. There will be a significant reduction in the local saline groundwater discharge into the River Murray and hence an improvement of the River waters salinity over the next 30 years. A grower-motivated drive to improve irrigation efficiency is also occurring, which over time will reduce the volume of drainage water generated. In addition, the Scheme will enhance economic development in the district by enabling future sustainable development, without additional impact of salinity or drainage on the River Murray.

A range of beneficiaries of the proposed works have been identified including downstream River Murray users (from salinity reduction); with the ratio of private to public benefits that have been estimated to be achievable by the SA Centre for Economic Studies to be 45:55. The private and public contributions to the whole of life costs in the Scheme are commensurate with this ratio which can be adjusted periodically to ensure that the private and public cost benefit ratios remain equivalent.

The SA Centre for Economic Studies prepared, in 1997, an analysis of the economic benefits associated with the proposed Scheme, which include production, environment and salinity benefits, and are estimated to have a value of about $50 million npv.

The capital cost of the works is approximately $7m and the operating cost $0.26m pa. Funds for the capital component of the scheme have been approved by the Natural Heritage Trust. 50 per cent of the capital funds required will be provided by the Commonwealth Government, and 50 per cent by the State through River Murray Catchment Water Management Board, and State NHT contributions. Irrigators will fund operating costs to achieve sustainability and salinity reduction benefits, over 30 years, to meet their agreed cost share of the project.

On completion, the Scheme will control the irrigation induced groundwater mound and will lead to sustainable irrigation of high value crops in the district. In addition, all irrigators contributing to the Scheme will achieve a zero salinity impact on the River Murray. Any new development in the district will also be required to achieve zero salinity impact and will be able to do so through access to the Scheme.

The salinity benefits from the Scheme will assist South Australia in meeting salinity impact obligations from irrigation development. The State intends, through the Minister for Water Resources, to use the salinity benefits generated by the Scheme operation to claim salinity credits under the Murray Darling Basin Salinity and Drainage Strategy.

The Parliamentary Works Committee and Parliament have endorsed the project.

To accommodate the arrangement for Scheme funding and cost sharing between the Governments and the community on the beneficiary pays basis already referred to, it has been necessary to develop special legislation to enable the Scheme to proceed and to formally secure financial contributions from each benefiting irrigator within the designated district. The *Ground Water (Qualco-Sunlands) Control Bill* has been drafted for this purpose. The draft Bill has been subject to community consultation and as a result of comments received, modified to meet both community and Government expectations. Passage of the Bill through Parliament will then allow for construction of the Scheme to proceed with completion planned for late 2000.

Explanation of Clauses

PART 1

PRELIMINARY

Clause 1 and Clause 2:

These clauses are formal.

Clause 3: Interpretation

Clause 3 provides definitions of terms used in the Bill.

Clause 4: Provisions relating to irrigation districts

Clause 4 provides for the fact that part of the Scheme Area is comprised of the Sunlands Irrigation District constituted under the *Irrigation Act 1994*. If some or all of the irrigated properties comprising the district do not have water allocations under that Act the whole district will be taken to be an irrigated property under the Bill and the irrigation trust will be a member of the Trust established by the Bill if a waterlogging and salinity risk management allocation is attached to the irrigated land of the district. If on the other hand all of the irrigated properties under that Act have a water allocation each of them that has a risk management allocation will be regarded as an irrigated property for the purposes of the Bill.

PART 2

THE QUALCO-SUNLANDS GROUND WATER CONTROL TRUST

DIVISION 1—ESTABLISHMENT OF THE TRUST

Clause 5: Establishment of the Trust

Clause 5 establishes the Qualco-Sunlands Ground Water Control Trust. The members of the Trust are the owners of land in the Scheme Area to which a risk management allocation is attached. Risk management allocations will not be allotted until the end of September and in the meantime members of the Qualco-Sunlands District Drainage Incorporated will be members of the Trust in order to transact the initial business of the Trust (*see* Schedule 4).

Clause 6: Transfer of assets etc. of Qualco-Sunlands District Drainage Incorporated to Trust

Clause 6 provides for the new Trust to take over the property, rights and liabilities of Qualco-Sunlands District Drainage Incorporated and its employees as well.

Clause 7: Presiding officer and deputy presiding officer of the Trust

Clause 7 provides for the presiding officer and deputy presiding officer of the Trust.

DIVISION 2—MEETINGS OF THE TRUST

Clause 8: Calling of meetings

Clause 8 provides for the calling of meetings of the Trust.

Clause 9: Procedure at meetings of Trust

Clause 9 provides for the quorum and other procedural matters at meetings of the Trust. Resolutions at meetings of the Trust require a majority in number and value to be carried.

Clause 10: Notice of meetings where ownership of property changes

Clause 10 provides that a further notice of a meeting of the Trust is not required where a change of ownership of land has occurred.

Clause 11: Voting

Clause 11 provides for voting at meetings.

DIVISION 3—BOARD OF MANAGEMENT, COMMITTEES AND DELEGATION

Clause 12: Board of management

Clause 12 allows the Trust to appoint a board of management to carry out the daily operations of the Trust.

Clause 13: Delegation

Clause 13 enables the Trust to delegate its functions and powers.

Clause 14: Notice of resolution

Clause 14 provides for the period of notice of a resolution to appoint a board of management or to delegate functions or powers.

DIVISION 4—ACCOUNTS AND AUDIT

Clause 15: Accounting records to be kept

Clause 15 requires the Trust to keep proper accounting records.

Clause 16: Preparation of financial statements

Clause 16 requires the preparation of financial statements and that the statements be audited. Subclause (5) makes failure to cooperate with the auditor an offence.

Clause 17: Accounts etc. to be laid before annual general meeting

Clause 17 requires the Trust to lay a copy of the audited financial statements of the Trust before each annual general meeting. The Trust must prepare a report on its operations for the previous financial year and lay that before the meeting as well.

DIVISION 5—APPOINTMENT OF ADMINISTRATOR

Clause 18: Appointment of administrator

Clause 18 enables the Minister to appoint an administrator of the Trust if the Trust persistently fails to perform its functions, or contravenes or fails to comply with a provision of the Bill or has been guilty of financial mismanagement.

PART 3

FUNCTIONS AND POWERS OF THE TRUST

DIVISION 1—CONSTRUCTION AND MAINTENANCE OF THE SCHEME INFRASTRUCTURE

Clause 19: Construction of the Scheme infrastructure

Clause 19 provides for the construction of the Scheme infrastructure.

Clause 20: Infrastructure for reuse of underground water

Clause 20 enables the Trust to acquire or construct infrastructure to recover underground water for the purposes of irrigation.

Clause 21: Maintenance and repair of infrastructure

Clause 21 requires the Trust to maintain and repair the Scheme infrastructure.

Clause 22: Vesting of Scheme infrastructure

Clause 22 provides that the Scheme infrastructure is vested in the Trust.

Clause 23: Insurance of Scheme infrastructure

Clause 23 requires the Trust to insure the Scheme infrastructure and to insure itself against normal risks and risks prescribed by regulation.

DIVISION 2—DISPOSAL BASINS

Clause 24: Provision of disposal basins

Clause 24 places the responsibility of providing disposal basins on the Minister.

DIVISION 3—OPERATION OF THE SCHEME

Clause 25: Operation of the Scheme

Clause 25 requires that the Scheme be operated so that the benefit derived by the Government on the one hand and growers on the other in relation to their respective financial inputs is as far as practicable equal.

Clause 26: Creation of salinity credits by Trust

Clause 26 enables the Trust to enter into agreements to use the Scheme infrastructure to produce salinity credits on behalf of the other party to the agreement.

DIVISION 4—POWERS OF THE TRUST

Clause 27: Powers of Trust

Clause 27 sets out the powers of the Trust.

PART 4

WATER DISPOSAL EASEMENT

Clause 28: Acquisition of easement

Clause 28 authorises the Minister to acquire the necessary easement for the Scheme infrastructure by agreement or compulsorily under the *Land Acquisition Act 1969*. Subclause (4) requires the Minister to transfer the easement to the Trust.

Clause 29: Rights conferred by easement

Clause 29 sets out the rights conferred by the easement.

Clause 30: Minimisation of damage etc.

Clause 30 requires a person exercising rights under the easement to minimise damage to land and vegetation on the land and avoid unnecessary interference with the land and the use and enjoyment of the land by other persons.

Clause 31: Issue of certificate of title for water disposal easement

Clause 31 provides for the issue of a certificate of title for the easement.

Clause 32: Dealing with easement

Clause 32 requires the approval of the Minister to an agreement or other transaction affecting the easement.

PART 5
IMPACT OF IRRIGATION ON WATERLOGGING AND SALINISATION
DIVISION 1—CLASSIFICATION OF LAND

Clause 33: Classification of land in the Scheme Area

Clause 33 provides for the classification of all irrigated land in terms of the impact of irrigating the land on the groundwater mound and the underground water lying above the layer of Blanchetown Clay in the Scheme Area. The classification of the land will translate through provisions in the regulations into the categorisation of the land. The category of irrigated land will affect the contribution to be paid under Part 7 in respect of it.

Clause 34: Members of the Trust to be consulted

Clause 34 requires that before the classification of land is varied the owners of land affected by the reclassification must be consulted.

DIVISION 2—CATEGORIES OF LAND

Clause 35: Categories of land

Clause 35 provides for categorisation of land.

DIVISION 3—CERTIFICATE OF ZERO IMPACT

Clause 36: Certificate of zero impact

Clause 36 enables a landowner who wishes to opt out of the Scheme to create his or her own drainage system and obtain a certificate of zero impact. Subject to clause 52 a certificate of zero impact excludes the obligation to contribute to the Scheme under Part 7 in respect of the land to which the certificate applies.

Clause 37: Variation or termination of certificate

Clause 37 provides for the variation or termination of a certificate of zero impact.

Clause 38: Appeal to the ERD Court

Clause 38 provides for an appeal if an application for a certificate of zero impact is refused or if a certificate is varied or terminated.

DIVISION 4—REDUCING THE IMPACT OF IRRIGATION

Clause 39: Rewards for reducing the impact of irrigation

Clause 39 provides for the making of regulations to set up a scheme to reward growers who reduce the adverse impacts of irrigation.

PART 6
ALLOCATION OF THE SCHEME'S RISK MANAGEMENT CAPACITY

Clause 40: Waterlogging and salinity risk management allocation

Clause 40 provides for waterlogging and salinity risk management allocations. The Scheme has a finite capacity to manage the risk of waterlogging and salinisation of land caused by irrigation and a waterlogging and salinity risk management allocation (or a risk management allocation) is a share of that capacity. A risk management allocation is attached to land and a grower who irrigates land that does not have an allocation attached to it will have to make a substantially increased contribution to the Scheme in respect of the irrigation of that land.

Clause 41: Application for initial risk management allocation

Clause 41 gives existing growers the right to be part of the Scheme by applying for a risk management allocation equivalent to the quantity of water set out opposite their water licence in Schedule 2. They can apply also at the same time for a share of the excess risk management capacity (if any) of the Scheme.

Clause 42: Determination of excess capacity

Clause 42 provides for the determination and redetermination from time to time of the risk management capacity of the Scheme by the Minister and the Trust.

Clause 43: Request for increase in, or for a new, risk management allocation

Clause 43 enables owners of land in the Scheme Area to apply to the Trust for a share, in the form of additional risk management allocations, of the risk management capacity of the Scheme.

Clause 44: Transfer of risk management allocations

Clause 44 provides for transfer of risk management allocation from land within an irrigated property to other land within the property if the land to which the allocation is transferred is not of a category having a higher risk of irrigation induced degradation.

Clause 45: Agreement with landowner to increase risk management capacity

Clause 45 enables a landowner or group of landowners to enter into an agreement with the Trust to increase the capacity of the Scheme infrastructure in return for a share of the increased risk management capacity of the Scheme.

PART 7
FUNDING THE OPERATION AND MAINTENANCE OF THE SCHEME
DIVISION 1—FUNDING THE SCHEME

Clause 46: Money required for operation and maintenance

Clause 46 provides for the determination by the Minister and the Trust of the money required by the Trust in the next contribution year to operate and maintain the Scheme infrastructure.

Clause 47: Payment by the Treasurer

Clause 47 requires the Treasurer to pay the amount determined under clause 46 to the Trust in 4 equal instalments.

Clause 48: Recovery of money paid by Treasurer to Trust

Clause 48 provides for the recovery by the Minister of the money paid by the Treasurer from the owners and occupiers of irrigated properties. Subclause (2) preserves the right of existing growers to elect not to be part of the Scheme by not applying for a risk management allocation and not increasing their water allocation above existing levels.

Clause 49: Adjustment of contributions

Clause 49 provides for adjustment of contributions when actual quantities of water used for irrigation are used.

Clause 50: Payment in respect of the unauthorised use of water

Clause 50 provides for payment in respect of the use of water which is unauthorised by a risk management allocation.

Clause 51: Computing overuse of water

Clause 51 explains that the quantities of water used will be averaged over 3 years to determine if water has been overused.

Clause 52: Rules for computing water used where certificate of zero impact applies

Clause 52 sets out the benefits of a certificate of zero impact.

Clause 53: Dry year declarations

Clause 53 provides for the notional reduction in the quantities of water used for irrigation where the recharge to the ground water mound and the water above the Blanchetown Clay is reduced because of a dry year or for any other reason.

Clause 54: Irrigation declarations

Clause 54 requires the owners of properties to which a risk management allocation is attached to provide the Trust with an annual irrigation declaration in accordance with the regulations.

DIVISION 2—RECOVERY OF MONEY FROM OWNERS AND OCCUPIERS

Clause 55: Liability to pay Minister

Clause 55 specifies the people who are liable to pay to the Minister contributions towards the cost of the Scheme.

Clause 56: Notice to persons liable of amount payable

Clause 56 provides for the service of notices on the persons primarily liable to contribute of the amounts payable.

Clause 57: Interest

Clause 57 provides for interest on unpaid contributions.

Clause 58: Amount first charge on land

Clause 58 provides that an amount unpaid under this Part is a first charge on the land.

Clause 59: Sale of land for non-payment

Clause 59 provides for the sale of land to recover an amount owing.

Clause 60: Money recovered to be paid to Treasurer

Clause 60 requires the Minister to pay money recovered to the Treasurer.

PART 8
WELLS

Clause 61: Activities relating to wells

Clause 61 prohibits certain activities in relation to wells in the Scheme Area without a permit granted by the Trust. The provisions of this clause and the other clauses of Part 8 mirror the provisions of the *Water Resources Act 1997* which they replace in the Scheme Area.

Clause 62: Permits
Clause 62 provides for permits under this Part.
Clause 63: Defences
Clause 63 sets out defences to an offence under clause 61. Paragraph *(a)* enables pre-existing use of wells to continue.
Clause 64: Notice to rectify unauthorised activity
Clause 64 enables the Trust to require a person who has undertaken an activity in contravention of clause 61 to rectify the effects of the activity. If the person fails to do so the Trust may take the necessary action and recover the costs from the person at fault.
Clause 65: Right of appeal
Clause 65 gives a right of appeal against the refusal of an application for a permit or against the conditions imposed on a permit or against the variation or revocation of a permit.

PART 9
OPERATION OF THE WATER RESOURCES ACT 1997 IN THE SCHEME AREA

Clause 66: Exclusion of section 9(3) of the Water Resources Act 1997
Clause 66 excludes the operation of the *Water Resources Act 1997* in relation to the need to hold a permit to undertake activities in relation to wells in the Scheme Area. Part 8 of the Bill will provide for the permits.
Clause 67: Problem of disposal of water not to be considered on application for water licence etc.
Clause 67 provides that the Minister under the *Water Resources Act 1997* should not consider the problem of disposal of water on an application for an increased water allocation in relation to land to which a risk management allocation is attached. The reason is that Scheme will provide adequately for the problem of water disposal.
Clause 68: Lower levy for certain irrigated properties
Clause 68 requires a lower levy under the *Water Resources Act 1997* to recognise the benefits provided by the Scheme under this Bill.
Clause 69: Scheme to be acknowledged in applications under section 140 of the Water Resources Act 1997
Clause 69 provides that where the River Murray Catchment Water Management Board is considering an application for a refund under section 140 of the *Water Resources Act 1997* it must regard the Scheme as a land management practice adopted by the applicant if a risk management application is attached to the applicant's land.

PART 10
MISCELLANEOUS

Clause 70: Inspection of infrastructure etc. by Minister
Clause 70 provides for inspection of the Scheme infrastructure by the Minister.
Clause 71: Entry onto land
Clause 71 enables a landowner to inform the Minister and the Trust of procedures to be followed when entering his or her land to avoid the spread of disease. A person entering land under the Bill who has notice of the procedures in accordance with this clause must follow them.
Clause 72: Property in water
Clause 72 provides that water that is in the Scheme infrastructure is the property of the Trust.
Clause 73: Measurement of water usage
Clause 73 provides for the measurement of water used to irrigate land.
Clause 74: Testing of meters
Clause 74 provides for the testing of meters.
Clause 75: Estimation by Trust of water usage
Clause 75 enables the Trust to estimate the quantity of water used to irrigate land if the quantity is unknown.
Clause 76: Owners and occupiers of land to provide information
Clause 76 enables the Trust to require an owner or occupier of land to provide it with information for the purposes of the Bill.
Clause 77: False or misleading information
Clause 77 makes it an offence to provide false or misleading information under the Bill.
Clause 78: Service of notices
Clause 78 provides for the service of notices.
Clause 79: Expiry of Act
Clause 79 provides that the Act will expire at the end of the 2029/2030 contribution year.
Clause 80: Regulations
Clause 80 provides for the making of regulations.

SCHEDULE 1
The Scheme Area
Schedule 1 is a map of the Scheme Area.

SCHEDULE 2
Waterlogging and Salinity Risk Management Allocations
Schedule 2 sets out the risk management allocations that the holders of the water licences set out in the right hand column are entitled to apply for.

SCHEDULE 3
Classes of well in relation to which a permit is not required
Schedule 3 sets out the classes of wells in relation to which a permit is not required under Part 8.

SCHEDULE 4
Transitional Provisions and Amendment of Other Acts
Schedule 4 sets out transitional provisions and makes a consequential change to the *Irrigation Act 1994*.

The Hon. P. HOLLOWAY secured the adjournment of the debate.

CRIMINAL LAW CONSOLIDATION (MENTAL IMPAIRMENT) AMENDMENT BILL

The House of Assembly agreed to the bill without any amendment.

SUMMARY OFFENCES (SEARCHES) AMENDMENT BILL

The House of Assembly agreed to the bill and to make a related amendment to the Criminal Law (Forensic Procedures) Act 1998, with the amendments indicated by the following schedule, to which amendments the House of Assembly desires the concurrence of the Legislative Council:

No. 1 Page 5, line 19 (clause 3)—Leave out 'of the search'.
No. 2 Page 5, line 24 (clause 3)—Leave out 'of a search of the detainee' and insert 'made'.
No. 3 Page 6, after line 15 (clause 3)—Insert new subsection as follows:

(5a) No civil or criminal liability is incurred by a person who carries out, or assists in carrying out, a procedure under this section for an act or omission if—
(a) the person genuinely believes that the procedure is authorised under this section; and
(b) the act or omission is reasonable in the circumstances.

JURIES (MISCELLANEOUS) AMENDMENT BILL

The House of Assembly agreed to the bill without any amendment.

ADJOURNMENT

At 11.40 p.m. the Council adjourned until Thursday 6 June at 11 a.m.